

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED THIRTEENTH CONGRESS SECOND SESSION

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U.S. CITIZENSHIP AND IMMIGRATION SERVICES

TUESDAY, JULY 29, 2014

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
Washington, DC.

The Committee met, pursuant to call, at 10:31 a.m., in room 2141, Rayburn Office Building, the Honorable Bob Goodlatte, (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Coble, Smith of Texas, Chabot, Bachus, Forbes, King, Franks, Gohmert, Poe, Chaffetz, Marino, Holding, Collins, Smith of Missouri, Conyers, Scott, Lofgren, Jackson Lee, Chu, Deutch, Gutierrez, and Cicilline.

Staff Present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief Counsel; Allison Halataei, Parliamentarian & General Counsel; Andrea Loving, Counsel; George Fishman, Counsel; Dimple Shah, Counsel; Kelsey Deterding, Clerk; (Minority) Perry Apfelbaum, Staff Director & Chief Counsel; Danielle Brown, Parliamentarian; and Tom Jawetz, Counsel.

Mr. GOODLATTE. Good morning. The Judiciary Committee will come to order.

Without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this morning's hearing on oversight of the U.S. Citizenship and Immigration Services, and I will begin by recognizing myself for an opening statement.

Welcome to the House Judiciary Committee, Director Rodriguez. I understand that this is your first time testifying in front of Congress as the Director of USCIS.

Your appearance comes at a time when Americans are feeling the repercussions of the illegal immigration crisis on the southwest U.S. border.

Of course, if President Obama took seriously his duty to secure the U.S. border and enforce laws against illegal immigration, there would be no such crisis.

U.S. Customs and Border Protection is the DHS agency getting most of the attention during this southwest border crisis. But there is no doubt that policies implemented by USCIS are a major source of the problem. And by that I mean policies such as Deferred Action for Childhood Arrivals, or DACA, a rubberstamping of credible

fear of persecution claims, and even higher asylum grant rates by USCIS officers.

DACA is a major reason for the influx of illegal immigrants to the United States. And discussion of the program is pertinent since USCIS recently announced the method by which the renewal of initial 2-year grants of DACA will be processed.

And along with that procedure, USCIS made changes to the original DACA guidelines and requirements, including gutting the education requirements.

I have previously expressed concern about the lack of any constitutional authority to implement DACA, the costs of the program, increased wait times for processing of legal immigration petitions directly resulting from DACA processing, and fraud in the program.

Fraud is of paramount concern since an immigration system subject to rampant fraud is a national security risk.

So I was particularly astounded in May when the USCIS added question and answer number 21 to its existing DACA guidance. It is an absolute invitation for fraud in which USCIS virtually admits that it will not verify the validity of documents submitted by applicants as evidence of DACA eligibility.

I understand that when USCIS leadership was asked about question 21, congressional staff members were assured that “generally, the majority of documents received are valid.” But forgive me if such an assurance is not comforting, especially now that USCIS is broadcasting its lack of intention to even attempt validation.

USCIS processes over 6 million applications and petitions per year. I understand the magnitude of that responsibility. And the enormous volume of work should make antifraud measures all the more important.

Unfortunately, what we have been hearing for years from sources at USCIS, and even the USCIS union, is the existence of a culture of “getting to yes,” unrelenting pressure on adjudicators to rubberstamp applications, and also of a culture where line adjudicators are routinely overridden when they deny applications or petitions.

There are documented instances of employees in leadership at USCIS taking control of applications or petitions that have been brought to their attention by immigration lawyers or other outside forces. And I understand that there are ongoing investigations of such illegitimate interference in the adjudication process.

The very notion that an application can be approved despite fraud on the part of the applicant, and that USCIS leadership will intervene if they get a call or email from an outside party interested in a certain visa application, is disturbing, to say the least.

We know that the President has promised more administrative action to allow unlawful immigrants to remain in the United States and receive quasi-legal status and the right to work. In fact, some of the different tactics he may try to take were even outlined in a set of 2010 leaked USCIS memos regarding “Administrative Alternatives to Comprehensive Immigration Reform” and “Immigration Administrative Relief Options.”

However, let’s be clear, such policies of this Administration, including many implemented at USCIS, as well as promises about fu-

ture administrative legalizations, continue to encourage unlawful immigrant parents to smuggle their children into the United States.

These policies and promises are putting money directly into the pockets of human smuggling and drug cartels. And they are undermining the fundamental constitutional principles that Congress creates the laws and the President is bound to enforce them.

I am interested in hearing how, under Director Rodriguez's leadership, USCIS will no longer contribute to this state of affairs. And I look forward to the director's testimony.

It is now my pleasure to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you, Chairman Goodlatte, and Members of the Committee.

In a nutshell, the United States Citizenship and Immigration Services is vital in examining the young people who are coming across our southern border.

And I want to suggest that before we leave for 5 weeks, that we try to ease the deportation of children and appropriate emergency funds, because we have too few judges, too few asylum officers. We have 243 immigration judges for 375,000 cases. We are talking about a more than 4-year backlog, my colleagues. So youngsters with valid claims should have a speedier way to have that determined.

Now, those without valid claims, I am sorry to say, should be sent back. But that determination is what democracy is all about. And it is our responsibility to be careful in how we do this.

I know the strong feelings about these youngsters pouring over here. But the question is, how do we dispose of it consistent with democratic principles that guide us? And nowhere should this be more keenly felt than the House Judiciary Committee itself.

So we must determine, even though there may be violence, persecution, trafficking, we are at a recess, and we still don't know.

Throughout this session of Congress, there have been too many of us who have had but one theme: The President isn't enforcing immigration law.

And this is a myth, a myth that has been debunked in hearing after hearing, where we have heard about record-breaking detentions, removals, and prosecutions.

Still, the majority is not persuaded by facts, and continues to blame the President for their inaction on immigration reform.

Many of them have argued that the President's use of prosecutorial discretion is unconstitutional, and we should be removing young people who seek the opportunity, if they qualify, to live, work, and study in the United States. They have said that our laws protecting people fleeing persecution and torture in their home countries should be rolled back, and that more of them should be detained for longer periods of time.

And most recently, some have used a humanitarian crisis affecting women and young children in Central America to say that we cannot fix our broken immigration system and provide relief to millions of undocumented Americans living within our borders. And that begins right in this important Committee.

So today, let's listen carefully. Over a year ago, the United States Senate passed a comprehensive immigration reform bill, allowing millions of individuals to apply for earned legal status. The House majority has refused to bring the bill or its companion bill, H.R. 15, for a vote.

The Congressional Budget Office tells us that we would reduce our deficit by \$900 billion over 20 years through these proposals.

So this refusal to bring a bill to the floor, despite the fact that an overwhelming majority of Americans support comprehensive immigration reform, is something that I feel very badly about. If such a bill were brought to the floor, I am confident that it would pass even the House of Representatives in the 113th Congress.

Unfortunately, I am beginning to think that the only immigration bill that we might ever see in this Congress will be a bill to strip protections that all of us unanimously agreed to extend to child victims of trafficking, persecution, torture, and abuse.

I feel that we can do better than this. We were sent here to solve problems that demand action on comprehensive immigration reform.

So I urge my colleagues, majority and minority in the House, to end the delay and to start acting.

And I join the Chairman in welcoming our distinguished witness, and I yield back the balance of my time. Thank you.

Mr. GOODLATTE. I thank the Ranking Member.

It is my understanding that the Ranking Member of the Immigration and Border Security Subcommittee would like to make an opening statement. Ordinarily, we would ask at this time that Members put their opening statements in the record. However, noting her request, and noting that the Chairman of the Subcommittee is not present, the Chair will turn to the gentleman from Utah, Mr. Chaffetz, for an opening statement, and then turn to the gentlewoman. And then we will put all other opening statements into the record.

So the gentleman from Utah, Mr. Chaffetz, is recognized for his opening statement.

Mr. CHAFFETZ. I thank the Chairman, and I appreciate you holding this. This is obviously a vital issue to the United States, and it is something that is exploding on our borders and exploding in this country.

As somebody who represents good, hardworking Americans who are doing the right thing, they are paying the taxes, they are working hard, they are trying to take care of their kids, they may be an individual who has just graduated and trying get their feet on the ground, there is a whole other wave of people who are coming here.

And I happen to believe, Mr. Chairman, that there is a proper place for asylum for those people who are truly in harm's way, whose life is in danger. This is a country that has had open arms. But we are being taken advantage of, and by great numbers.

The flow coming across our border is just absolutely unbelievable. By every metric, every account, everything I have seen, people who are coming here and trying to take advantage of the United States of America and our generosity are overwhelming the system. And the consequence is, we have people who are legally and law-

fully trying to come to this country, we have been ignoring those people.

The people who are legally and lawfully getting in line and trying to do it the right way, trying to come in the front door, what about those people? Because the resources that we have had to take for those who are not willing to play by the rules have put a great strain upon the system, a huge strain upon the system.

And that is why I think this hearing here is so vital today. We have to address some very important topics. Those people who are coming across and claiming asylum—and they are not just coming from one or two countries.

When I went and visited the border, I went to the detention facility in Phoenix, there were representatives from 60 different countries that were trying to come across the border. They were overwhelming the system.

When I visited the Phoenix ICE office, and we were talking to them about what is going on in the system right now, you had people literally knocking on their door every day, saying, “Please, arrest me, because I want to get in the system.”

The system just generally works like this. You come in, you make your claim, you are going to get some sort of court date. Now, in Phoenix, when I was there, what they told me, and this was in 2013, is you would get a court date in 2020.

In the meantime, what are you going to do? You are going to say, “Well, because my court date is so far in the future, I need to be able to work.” And then we grant these people a work permit.

So now they get free education, free health care, and they have a work permit to compete against somebody who is legally, lawfully here, whether they are on a green card or whether they are maybe a United States citizen competing for those jobs.

Again, we can be compassionate, but the reality is, President Obama and this Administration have created a magnet. And the magnet says this, “Come step foot in the United States of America and nothing is going to happen to you. There is not going to be consequence to this.”

It is unfair. It is not right.

The President owns this issue. The President has created this situation. There is a reason why particularly the unaccompanied minors are flowing across the border. Because they don’t feel like anything is going to happen to them.

We are going to take care of them. We will go ahead and take you and then we will pass you off to somebody else. If you have a little note in your pocket, we will pass you off to somebody else.

Do we do any background checks on who we are passing these minors to? No. No, we don’t.

Do we check the legal status of the person we are handing them off to? No. This Administration doesn’t do that.

It is fundamentally and to its core wrong. And a key part of this system is what the United States Citizenship and Immigration Services does along with this process.

We have a lot of good men and women. They are patriotic. They are working hard. They are trying to the right thing for their country.

But I worry about the direction that they are given, the direction that they are being given by their management. And I worry what this Administration is telling them to do or not to do. And that is of deep concern.

So, Mr. Chairman, I appreciate you holding this hearing. A lot of Members have great questions that I look forward to hearing today. And I yield back.

Mr. GOODLATTE. The Chair thanks the gentleman, and recognizes the gentlewoman from California, the Ranking Member of the Immigration and Border Security Subcommittee, Ms. Lofgren, for her opening statement.

Ms. LOFGREN. Thank you, Mr. Chairman.

Let me begin by welcoming our witness not only to today's hearing, but also to his new position as director of the U.S. Citizenship and Immigration Services.

I think it is fair to say that USCIS doesn't usually get the kind of attention that the rest of the components of DHS do, but its mission is very important.

As we know, USCIS adjudicates a wide array of immigrant and nonimmigrant petitions. Families hoping to reunite, businesses searching for talent, persons fleeing persecution and torture, lawful permanent residents applying to become American citizens all go through your agency. And it is critically important to our country that your agency performs well.

It is also important to point out that USCIS is responsible for all of these important activities without any taxpayer money. It is entirely fee-driven except for a minor amount that is basically used to implement E-Verify. All of the applicants pay for the services they receive.

Now, why is this important to our country? I sometimes mention my grandfather, who came to the United States in the early 20th century. He got on a boat, got off the boat, and I am in Congress today because he had the courage to want the American dream.

And the director's own story of his family fleeing Turkey and Poland to escape anti-Semitism to Cuba, and then fleeing Cuba to escape communism. And here he is today, part of the rich American fabric.

I have always admired immigrants who have enough get up and go to get up and go. They made our country. And we who are here have inherited that rich history, and we are now in a position to help shape the future for those who come after us. And it is incumbent upon us that we preserve that legacy.

Now, there are many topics that will be discussed today, but I want to touch on the issue because it has already been mentioned about the unaccompanied children who have been apprehended at the southwest border.

As we know, these individuals are, under law, placed in the safekeeping of the Department of Health and Human Services. But it is USCIS asylum officers who determine whether there is a well-founded fear of persecution. And in the director's written testimony, he explains that almost 65 percent of the asylum applications filed by unaccompanied children that have been adjudicated this fiscal year have been approved.

Now, some argue that this somehow means that there is a rubberstamp of these applications, or that the asylum system is vulnerable to fraud and abuse. I look at that statistic and think that these are vulnerable children who are fleeing persecution and extreme violence, and they are thankful that they are receiving the protection to which they are entitled under domestic and international law.

I think it is worth pointing out that an application for asylum isn't illegal. That is part of our immigration laws, and it has been since after World War II.

Now, children who have been abandoned, abused, or neglected and who obtain a State court order can apply to USCIS for special immigrant juvenile (SIJ) status. The director notes that over 3,900 applications for this SIJ status have been received this fiscal year.

Those of us who went to South Texas this month know that these applications require a finding by a State court that these children have been abandoned. A State court makes that determination, and it is only then that USCIS will proceed.

Now, children who have been victims of severe forms of human trafficking are eligible for a T visa. It is important that we maintain and defend this procedure.

As Mr. Conyers has pointed out, we had a nearly unanimous vote in 2008 that put the Congress and America on record saying we will fight human trafficking and we will make sure that the victims of human trafficking are given safe haven in the United States.

Much of this discussion in the Congress and in the country has overlooked the fact that the Wilberforce act is about human trafficking, slavery, and sex trafficking. And if we are to eliminate the protections in that act, what we will be saying is that we will once again countenance the victims of trafficking being returned to their traffickers.

I will say this, that we did make an exception for the children from contiguous countries. And we have learned, much to our sorrow, that those exceptions need to be revisited, because the United Nations, at our request, has reviewed our processes and found that children from contiguous countries who have been trafficked are, in fact, being returned to their traffickers.

With that, Mr. Chairman, I look forward to this hearing, and I yield back.

Mr. GOODLATTE. The Chair thanks the gentlewoman.

And without objection, all other Members' opening statements will be made a part of the record.

[The prepared statement of Ms. Jackson Lee follows:]

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress from the State of Texas, and Member, Committee on the Judiciary

I would like to thank Chairman Goodlatte and Ranking Member Conyers for holding this timely oversight hearing on the United States Citizenship and Immigration Service.

Mr. Chairman this hearing is timely because as you know we are a year and one month removed from having passed out of this Committee several bills pertaining to immigration.

The bills were agriculture, border security, employment, and workplace compliance. But since then: nothing.

We do the American people a disservice when we hold consecutive hearings on topics like asylum, Unaccompanied Minors, and other topics in order to sandbag the efforts of the millions of Americans who want to do comprehensive immigration reform.

I wish to thank our witness: Mr. Leon Rodriguez, Director, USCIS.

Director Rodriguez has a very rich personal history as an immigrant son from Turkey and Poland and a former prosecutor, leading me to believe that he will perform his duties in a professional manner.

To that end, I appreciate his outreach to the 8.8 million permanent residents currently eligible to apply for citizenship who have not done so.

The United States is a country made up of immigrants, and it is part of what makes us so strong and vibrant. And while immigration reform remains an unsolved challenge for our nation, House Democrats are leading the way towards comprehensive reform.

Indeed, the decision made by President Obama two years ago to defer deportation action against young people who were brought here by undocumented parents but have been raised here in our country was an important step in the right direction.

This decision has helped ensure that over half-a-million hard-working, eager, and talented individuals who came here not of their own choice, and who are contributing to our economy and our defense, can remain here and continue to be part of building a strong future for America.

Now we are faced, Mr. Chairman, with the surge of unaccompanied children on our southern border. They do not pose a threat to our national security; nevertheless the Emergency Supplemental Appropriations Act must be passed before Congress leaves town for its district work-recess.

Contrary to the shrill rhetoric used by some commentators, the nation is not being invaded by an army of children dispatched to do us harm. In fact Mr. Chairman, one month ago you and I witnessed the deplorable conditions with your own eyes—babies as young as three years old.

We are confronted with a humanitarian crisis resulting from the alarming scale of violence and economic desperation in three Central American countries: El Salvador, Honduras, and Guatemala. Politicizing the issue will not solve the problem. Taking actions that address the root causes in the short and long term will.

In the short term, we need to allocate the resources needed to deal with the increase in unaccompanied children seeking refuge in the United States.

Under current law, each such child is placed in deportation status immediately but given the opportunity to present their case for asylum to an immigration judge. This is a fair process and avoids the re-victimizing of children who fled their home country to escape horrible violence.

These cases involve children who are fleeing lethal violence or are victims of crime or human trafficking and are eligible for a temporary stay in the United States under the *Trafficking Victims Protection Reauthorization Act of 2008*, passed in 2008 by Congress and signed by President George W. Bush. That law provides persons fleeing lethal violence or escape from human trafficking the opportunity to have their case heard by an immigration judge.

Yet this Congress has failed to provide any resources needed to fund the courts and judges needed to send these children through the legal system; therefore, we should fund the number of immigration judges needed. Without them, the result is a current average delay of 578 days to hear over 366,000 pending cases.

Because this situation is untenable for everyone—law enforcement, taxpayers, and individuals petitioning for relief, the first thing that we can and should do to reduce the backlog is pass the emergency supplemental and provide the funding needed to appoint 70 new immigration judges, as provided under legislation I recently introduced, *H.R. 4990, the Justice For All Children Act*.

I remain committed to working with my colleagues, on a bipartisan basis, on this very important issue, and would hope for a spill-over effect into the realm of comprehensive immigration reform.

I remain committed to advocating for common sense enforcement measures as part of a broader immigration reform package that will further secure our borders, ensure agricultural interests have an ample labor supply, universities and businesses are not short workers, and proper work-place compliance is achieved, but also uphold our values as a Nation of immigrants.

Thank you. I yield back my time.

Mr. GOODLATTE. We now thank our only witness, the director, for joining us today.

Director Rodriguez, if you would please rise, I will begin by swearing you in.

[Witness sworn.]

Mr. GOODLATTE. Let the record reflect that Director Rodriguez responded in the affirmative.

Mr. Rodriguez serves as the director of the United States Citizenship and Immigration Services, the Department of Homeland Security agency responsible for administering and processing immigration benefits, including asylum, naturalization, and visa petitions.

Prior to joining USCIS, Mr. Rodriguez was, first, an Assistant U.S. Attorney in Pittsburgh, led the Department of Labor's Wage and Hour Division, and served as the head of Office of Civil Rights within the Department of Health and Human Services, respectively.

He attended Brown University, where he earned a bachelor of arts in history in 1984. Mr. Rodriguez received his J.D. from Boston College in 1988.

Thank you very much for coming, and we look forward to your testimony.

Your written statement will be entered in its entirety into the record, and I ask that you summarize your testimony in 5 minutes.

To help you stay within that time, there is a timing light on the table. When it turns yellow, that means you have 1 minute left to summarize your testimony.

Thank you, and thank you for being here today, and you may begin.

**TESTIMONY OF THE HONORABLE LEON RODRIGUEZ,
DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES**

Mr. RODRIGUEZ. Thank you, Chairman Goodlatte. And good morning, Ranking Member Conyers, Congressman Chaffetz, Ranking Member Lofgren, and the other Members of the Committee.

I am extremely honored to be the new director of the United States Citizenship and Immigration Services, and to be before you today. I hope that today is the beginning of a long and fruitful and constructive relationship that I will have with this Committee as a whole and with its members, in particular.

I am also honored to be the leader of more than 18,000 extremely dedicated men and women who are the employees of the United States Citizenship and Immigration Services. I have worked in many different government positions. I have worked in the private sector. And I can say, even after the short time in office, that as a country, we really should be pleased to have extreme level of talent, commitment, and work ethic that characterizes so many of the people that I have had the opportunity to meet in these last 3 weeks.

I accepted this job because I am a patriot. I am a patriot who believes that America is, indeed, unique in its freedom, its equality, its energy, and its enterprise. And those qualities are the product of the kind of people who are in this country and who come to this country.

They are people who work hard. They are people who take risks. They are people who are dedicated to making a better life for their family.

Those kinds of people come from all over and do all kinds of things. They can be tomato pickers. They can be physicists. They can be captains of industry. They can be plumbers.

And for me, the challenge as Director of U.S. Citizenship and Immigration Services, and the reason I am embracing this challenge, is to create a fair and efficient system for those individuals to find a place in our society.

I am the son and grandson of immigrants. My parents did flee communism in Cuba, and my grandparents fled both anti-Semitism and hardship in both Turkey and Poland. These are certainly motivators for my work here as well. Like so many, my parents hoped for a better future for me and for my sister as well.

I have spent the majority of my career as a law enforcement officer. I don't need to have done that to know that there are many people who wish the United States harm. So I do view it as a very solemn and important part of my work to safeguard the security and safety of the United States.

I would like to relate two particular experiences that I have had during my few days as director of U.S. Citizenship and Immigration Services. I had the honor of attending a naturalization ceremony, where 53 different countries were represented, showing the remarkable energy and talent that continue to pursue the dream of becoming new Americans every day.

And I had the opportunity recently to meet with the recently returned refugee processing team from our Refugee Asylum and International Operations Division that had recently come back from Iraq. These are incredibly dedicated and talented public servants, who I can say with great confidence inspired me when I heard the stories of the work that they do.

Now we have some challenging issues to talk about today. I have no doubt that we will be talking about the Deferred Action for Childhood Arrivals program. I can say that as a former prosecutor, I have exercised discretion. I have worked for leaders who exercised that discretion. That is not anything novel in the various enforcement enterprises in our country.

It is my view that DACA provides an opportunity to exercise prosecutorial discretion. For example, for an individual who I just met who is about to receive her degree at Harvard, or another individual who is in medical school and trying to decide whether to be a dermatologist or an OB/GYN.

I imagine we will also speak this morning about the crisis at the border. I think, as has been noted, the President has, indeed, recognized this as a very serious problem, as has my agency and as has Secretary Johnson.

I would like this morning to talk in more detail about how our asylum process works, and the degree to which these asylum claims actually play a role in this crisis.

I look forward to our continuing conversation this morning.

Thank you.

[The prepared statement of Mr. Rodriguez follows:]



**U.S. Citizenship
and Immigration
Services**

WRITTEN TESTIMONY

OF

LEON RODRIGUEZ

DIRECTOR

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

FOR A HEARING ON

**“OVERSIGHT OF
U.S. CITIZENSHIP AND IMMIGRATION
SERVICES”**

BEFORE

THE HOUSE COMMITTEE ON THE JUDICIARY

JULY 29, 2014

10:00 AM

**2141 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC**

Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, I am Leon Rodriguez, the new Director of U.S. Citizenship and Immigration Services (USCIS), and I appreciate the opportunity to appear before you today to testify about the state of USCIS and discuss several critical issues important to this Committee.

I am extremely grateful to the Members of this Committee for your continued strong interest in USCIS and its programs. Having just entered on duty as the Director of USCIS on July 9th, I look forward to the opportunity to meet with each of the members of this Committee personally and to learn more about your specific interests.

Even before taking the job, I was already keenly aware that USCIS' mission is an extremely challenging one. And I recognize, as each of you are already aware, just how critical it is that USCIS carry out that mission fairly and accurately. USCIS has a proud history of providing benefits to individuals from all over the world. These benefits support fundamental values and needs of our nation, be they economic, humanitarian, or in the public interest. USCIS delivers these benefits while being ever vigilant for those who seek to undermine the integrity of our immigration system—or worse—those who seek to do us physical or economic harm. USCIS is only able to accomplish its complex and vital mission through the efforts of its thousands of dedicated public servants who each day administer a complex immigration system fairly, firmly, and professionally. I look forward to becoming acquainted with as many of them as possible in the days ahead.

I understand the challenges in managing an effective and efficient immigration services organization, while delivering on the promise of our mission. I fully appreciate that our ability to overcome challenges and take full advantage of our potential requires close relationships with our partners, including Congress and this Committee, in particular.

I also take very seriously the trust that has been given me. It is of personal importance to me that our Agency embodies our core principles of transparency, integrity, consistency and efficiency. Doing so will ensure that we are effective stewards of the resources — appropriated and fee-based—we receive. It is personal to me, you see, for I was born in Brooklyn, New York to Cuban immigrants. My grandparents came to Cuba from Turkey and Poland, escaping anti-Semitism and oppression. In two generations, my family made not one, but two life-changing moves. Like many immigrants to this country, my parents hoped for a better future, not just for themselves, but for their children. Having devoted my life to public service, I hope that I not only met their expectations, but I am also giving back to the country that welcomed them. As a former trial attorney, county attorney, Assistant United States Attorney, a Deputy Assistant Attorney General of the Civil Rights Division within the Department of Justice, and as the former Director of the Health and Human Services Office for Civil Rights, I intend to draw on my background, as well as my heritage, to ensure that USCIS delivers the appropriate benefits to the right people while ensuring that benefits are denied to those who are ineligible.

Management Priorities

In my short time at USCIS, I have discussed priorities with the Agency's management team. I fully support ongoing efforts to make USCIS a world-class organization—with transparent policies and procedures. I have been impressed with the Agency's commitment to engagement with entities across the spectrum of our communities—from law enforcement and intelligence agencies and governmental organizations to immigration advocacy groups. The better we communicate with our stakeholders, the better we can provide the world-class service we should all expect.

Today, I would like to take this opportunity of my first appearance before you to provide an overview of key accomplishments and initiatives USCIS has undertaken and also give you an overview of some of the key challenges I believe we currently face. Each of the actions we are undertaking stems from our Agency's guiding principles of integrity, efficiency, consistency and transparency.

USCIS.gov

USCIS has implemented a vastly-improved website to improve the ability of USCIS customers to access the information and assistance they need. The redesigned USCIS.gov website and its parallel website for Spanish-speaking customers are even more customer-centric. The website provides customers with a "one-stop shop" for immigration services and information. Through the website, customers are now able to receive real-time information regarding their case status, obtain office-specific processing times, and opt to receive a text message when their status changes. The clarity of language has been improved, customer service tools have been made more accessible, and navigation through the website has been simplified. Each day, there are between 330 and 370 thousand visitors on the USCIS website, making it one of the most visited in the federal government.

Promoting Citizenship

As the primary government agency overseeing lawful immigration to the United States, USCIS is committed to promoting citizenship and its importance to society and raising awareness of citizenship rights and responsibilities among the permanent resident population. Our continued success as a nation of immigrants depends on the ability of lawful newcomers to permanently settle in communities and enjoy the rights and freedoms that define our nation. Naturalization is a critical milestone for immigrants in achieving full participation, gaining a sense of belonging, and receiving equality under the law.

To maximize the potential to reach the estimated 8.8 million permanent residents currently eligible to apply for citizenship but who have not yet done so, USCIS has entered into partnerships with cities to raise awareness. Starting first with a Letter of Agreement with the City of Los Angeles to promote citizenship awareness, education and civic participation, USCIS expanded on this model of municipal partnerships by signing Letters of Agreement with Chicago in 2013 and with Nashville in 2014. These mutually beneficial partnerships give

USCIS new avenues to engage with immigrants and also help cities deliver much needed information and services to their residents. Such cooperation has also helped us identify opportunities for other local institutions, particularly public libraries, to serve as venues for disseminating resources and information. We formalized this engagement with libraries in 2013 through a Memorandum of Understanding with the federal Institute of Museum and Library Services. This partnership allows us to provide libraries with official immigration and naturalization information, along with ongoing training opportunities for local librarians.

In addition, the Citizenship and Integration Grant Program is a key component of USCIS' broader effort to build capacity in communities to prepare immigrants for citizenship. It is the only federally funded program that makes preparing permanent residents for naturalization its primary goal. Since October 2009, USCIS grant recipients have provided citizenship preparation services to more than 86,000 permanent residents in 33 states and the District of Columbia. Federal funding by itself cannot fully meet the citizenship preparation needs of those eligible to apply for naturalization, so our agency continues to train adult educators and volunteers on the skills needed to teach U.S. history, civics and the naturalization process to immigrant students. We recently reached a milestone of more than 10,000 participants in these trainings.

Public Engagement

Recognizing the need for transparency, we have emphasized communication and outreach through implementation of a robust and improved stakeholder engagement program. Our Office of Public Engagement works to ensure our external partners are included in the consideration of policy and process development, while also keeping our customers fully informed of USCIS issues and activities. The Office has held hundreds of collaboration sessions with the immigration stakeholder community on a wide variety of topics such as the redesign of the medical certification for disability exceptions form, the development of a new fee waiver form, Haitian TPS, and issues affecting vulnerable populations. Just as an example, on TPS for Haiti alone, the Office has coordinated over 156 engagements reaching more than 16,400 individuals. In FY2013, the Office of Public Engagement held over 230 engagements with our federal partners.

Policy and Procedure Transparency

From my long career upholding the law while protecting individuals' civil rights, I believe it imperative that USCIS maintains the highest standards of integrity. I understand how crucial the uniform application and interpretation of policies across USCIS is to our mission of providing the public with the highest possible level of service.

To enhance consistency and integrity, we are continually reviewing our policy and operational guidance documents to ensure that we apply the law consistently and appropriately in the delivery of immigration benefits. This ensures that USCIS is consistent in application of our policies and operational procedures across all our domestic and international offices, giving applicants and petitioners the chance to know

what to expect. We will continue to examine our policies and procedures to ensure this consistency becomes a hallmark of USCIS and its adjudications.

Stewardship and Workload Management

Over the years, USCIS has developed several common-sense plans to reduce non-mission critical travel, subscriptions, and printing; maximize the use of government space for meetings; and improve utilization of refurbished information technology. USCIS issued a reduction in centrally located training that has helped reduce associated travel costs. USCIS has also undertaken a Balanced Workforce Strategy, consistent with a Department-wide initiative that has helped USCIS reduce workforce-related costs over time, without sacrificing our ability to deliver timely products to eligible applicants.

A continuing challenge for us remains the balancing of workloads. When implementing new programs or experiencing surges in applications, there is always a danger that backlogs will develop. We will always look for ways to vigorously make quality improvements in the administration of the immigration system, while not sacrificing processing times for application and petition adjudication.

Our most recent challenge in balancing workloads was in the timely adjudication of I-130 immediate relative visa petitions. Between August 2012 and October 2013, over 163,000 stand-alone I-130s were shipped to field offices for adjudication. In October 2013, USCIS began transferring stand-alone I-130s filed on behalf of an immediate relative of a U.S. citizen from the National Benefits Center to the four Service Centers. USCIS has worked diligently to eliminate this backlog of stand-alone I-130 immediate relative petitions. Currently, USCIS field offices have just over 1,100 cases from the original backlog left to adjudicate, and all of these cases are currently in the process of being adjudicated. As of June 2014, processing times have been reduced to within the processing goal of 5 months or less at three of the four service centers and to 5.5 months at the fourth.

In order to ensure that this type of backlog does not develop again, USCIS will continue to prioritize this important workload and routinely monitors receipt and adjudication rates to avoid large backlogs developing. USCIS will reallocate resources as needed to address any filing surges that may arise.

USCIS Anti-Fraud and National Security Screening Efforts

USCIS is committed to ensuring that immigration benefits are not granted to individuals who pose a threat to national security or public safety, or who seek to defraud the U.S. immigration system. In keeping with this commitment, USCIS has instituted a robust system of programs, procedures, and security checks, led by the Fraud Detection and National Security Directorate (FDNS). At its core, this system ensures that every application for an immigration benefit is screened before it is adjudicated.

In May of this year, FDNS marked its tenth year as an organization within USCIS. Built to enhance the agency's fraud-detection, national security, public safety, and intelligence support capabilities, FDNS now has officers in every USCIS field office, service center, and asylum office across the United States, as well as three overseas locations. These officers receive intensive training designed to provide guidance in identifying immigration fraud, conducting administrative investigations, and managing national security cases. Reflecting the fact that the anti-fraud and national security mission is shared across the agency, FDNS officers work hand-in-hand with their adjudication officer counterparts to ensure that immigration benefits are granted to the right individual, at the right time, and that no benefits are granted to those who are ineligible or pose a threat to our country's security.

FDNS has taken a number of recent steps to enhance its operational effectiveness, including:

Fraud Detection Enhancements

- Expanding the Administrative Site Visit and Verification Program (ASVVP) to include L-1A Intracompany transferees, while continuing to conduct unannounced pre- and post-adjudication site visits on religious worker and H-1B petitions. During these site visits, FDNS officers verify information submitted with petitions, confirm the existence of the petitioning entity, review public records, take photographs, and speak with organizational representatives and the beneficiary. FDNS has conducted over 76,000 ASVVP site inspections since 2009 when this program was created.
- Implementing new post-conviction integrity management processes to deal with immigration benefit applications implicated in large-scale fraud prosecutions.
- Ensuring officers are provided with current information on fraud trends and patterns through the use of intelligence reporting and mandatory anti-fraud training. To that end, FDNS has implemented an updated intelligence report tracking and dissemination method via an agency-wide communication mechanism, and enhanced its ability to share immigration-related intelligence reporting with U.S. government counterparts. The agency is harnessing technology to better enable identification of imposters, criminals, and others who are attempting to game the immigration system.
- Augmenting the FDNS Basic training program to incorporate criminal investigation modules provided by the Federal Law Enforcement Training Center (FLETC).

National Security, Screening, and Vetting Enhancements

- Developing an intelligence-driven approach to managing cases with national security concerns.
- Reordering the FDNS organizational structure to include a new Program Management Office, charged with advancing new screening and technology initiatives in collaboration with USCIS's Office of Information Technology, and standing up a Public Safety Division to address the threat posed by transnational organized crime.
- Developing, in conjunction with colleagues from the Refugee, Asylum, and International Operations Directorate, enhanced screening for higher risk groups in the refugee and asylum domains.

To ensure national security and public safety threats are recognized and addressed, USCIS conducts a combination of automated and manual biographic and biometric background

checks. In support of these screening efforts, FDNS partners closely with law enforcement and intelligence community agencies, including the FBI's Joint Terrorism Task Forces, and all State and Major Urban Area Fusion Centers has detailed FDNS officers to U.S. Customs and Border Protection's National Targeting Center, U.S. Immigration and Customs Enforcement's Document and Benefit Fraud Task Forces, and Forensic Laboratory, the National Counterterrorism Center, the Terrorism Screening Center, the Department of State's Kentucky Consular Center and National Visa Center, INTERPOL's National Central Bureau, and others.

Deferred Action for Childhood Arrivals (DACA)

I would now like to discuss the Deferred Action for Childhood Arrivals (DACA) program and other ongoing efforts. This Administration has worked diligently to focus immigration enforcement resources on public safety, border security, and the integrity of the immigration system. On June 15, 2012, then-Secretary of Homeland Security Napolitano announced that certain individuals who came to the United States as children and met several key guidelines could request consideration of deferred action for a period of two years and, if authorized, could receive work authorization. After the initial two-year period, individuals would be allowed to request a renewal of deferred action. Deferred action is a discretionary determination to defer removal action on a case-by-case basis against an individual as an act of prosecutorial discretion.

USCIS was charged with establishing a clear and efficient process for consideration of DACA requests. This effort is part of a greater DHS effort to ensure that valuable and limited enforcement resources are spent wisely on those individuals who are a danger to national security or a risk to public safety.

DACA reflects, on a larger scale, the exercise of the prosecutorial discretion that is inherent in every individual encounter in which DHS engages. Under DACA, DHS may defer the removal of an individual who meets the guidelines. DACA does not confer a legal status on the recipient; it is simply the exercise of prosecutorial discretion to defer the removal of an individual. It does not eliminate the fact that the individual remains subject to removal should DHS decline to continue to exercise prosecutorial discretion favorably. Individuals granted deferred action pursuant to DACA are authorized to seek employment authorization. This helps achieve the social benefit of lifting these individuals out of the underground economy and enabling them to participate in the mainstream economy.

As of June 30, 2014, over 580,000 individuals have received deferred action pursuant to DACA. DHS has now launched the next phase of DACA, which involves the renewal of deferred action. The first USCIS-issued grants of deferred action under DACA will expire in September 2014. USCIS has revised Form I-821D, Consideration of Deferred Action for Childhood Arrivals, to allow for both initial DACA requests and renewal requests. As of June 5, 2014, all requestors, whether initial or renewal, must file the new version of Form I-821D. As of June 27, 2014, USCIS had received over 6,800 renewal requests. We also continue to receive DACA requests from those seeking an initial period of deferred action under DACA.

While DACA serves the dual purpose of fairness and the wise use of enforcement resources, it cannot substitute for comprehensive immigration reform. DHS and the Administration will continue to advocate for Congress to enact lasting, comprehensive reform.

Asylum and Credible Fear Claims

The current influx of migrants across the Southwest border has resulted in significant increases in apprehensions and expedited removals. In the expedited removal process, USCIS plays an important role in ensuring that potential refugees or victims of torture are not improperly returned to their home countries. Our specially-trained Asylum Officers interview individuals who express a fear of return during the expedited removal process to determine whether they have a credible fear of persecution or torture. Individuals who meet the credible fear threshold are placed in removal proceedings, where they can apply for asylum or other relief. Individuals found not to have a credible fear of persecution may request review of that finding by an immigration judge. USCIS coordinates closely with our DHS partner agencies, CBP and ICE, to screen individuals for credible fear as part of the expedited removal process.

Over the last three years, as migration across the Southwest border has increased, the number of credible fear claims has climbed sharply from 13,880 in FY12 to a projected 50,000 by the end of FY14. USCIS has pursued a number of strategies to address this increased caseload, including:

- Hiring and training 100 new asylum officers this fiscal year;
- Deploying over fifty asylum-trained officers from across the agency to process credible fear and asylum cases on temporary assignments;
- Streamlining credible fear procedures;
- Maximizing overtime; and
- Creating a remote adjudication capability that enables Asylum Officers to process credible fear cases from any location.

As a result of these efforts, USCIS has not only kept pace with this exponentially growing caseload, we have also accelerated processing times, going from a 14-day processing time to an eight-day average processing time. In addition, as part of the federal government's coordinated response on the southwest border, USCIS has deployed additional Asylum Officers to key detention facilities along the border. Our ability to timely process credible fear claims saves valuable detention resources, enables the entire expedited removal process to operate more efficiently, and most importantly, minimizes detention of potential asylees and victims of torture.

These efforts have not come without costs. Resources have been diverted from our affirmative asylum caseload to the credible fear caseload, causing our pending affirmative asylum caseload to grow from 15,526 cases at the end of FY12 to over 50,000 cases by June 2014. In order to help reduce the pending caseload, last month we began the process of hiring 50 additional asylum officers. We will continue to identify ways to

maximize our resources, work efficiently, and enhance quality as we work to address both the credible fear and affirmative asylum caseloads.

USCIS is also supporting efforts to address the flow of unaccompanied children across the Southwest border. While unaccompanied children are not subject to expedited removal and therefore do not enter the credible fear process, USCIS has initial jurisdiction over asylum applications filed by unaccompanied children under the Trafficking Victims Protection Reauthorization Act of 2008. In FY14 (through the third quarter), USCIS has received over 1,500 asylum applications from unaccompanied children—approximately four percent of asylum applications received overall by USCIS. Of the 167 unaccompanied children asylum cases adjudicated on the merits in FY14 through the third quarter, 64.7% (108) have been granted asylum status. According to our records, most unaccompanied children who are apprehended at the border file for asylum with USCIS more than 300 days after entering the United States. Thus, only 163 of the over 1,500 unaccompanied children who applied for asylum with USCIS this FY (through the third quarter) were apprehended at the Southwest border in FY14. Therefore, of those unaccompanied children who were both apprehended at the border and applied for asylum during FY14, USCIS has only adjudicated two cases, both of which were approved as of July 15.

USCIS also adjudicates Special Immigrant Juvenile (SIJ) petitions filed by unaccompanied children. In FY14 (through June), over 3,900 SIJ petitions were filed, though not all by unaccompanied children.

USCIS remains strongly committed to supporting the government-wide response to the migration flows on the Southwest border, including ensuring those who have protection claims are provided the opportunity to have those claims heard.

Refugee Admissions

USCIS, working with other government partners, remains steadfastly committed to fulfilling its humanitarian mission of adjudicating refugee claims around the world. In FY 2013, 69,926 refugees were admitted to the United States, the closest the refugee program has come to reaching the admissions ceiling authorized by the President in over 30 years. A record number of Iraqi refugees (19,488) were admitted in FY 2013, including 7,000 U.S.-affiliated applicants who were processed in Baghdad. While we strive each year to realize the refugee admissions ceiling in cooperation with our partners at the Department of State, we are equally committed to ensuring the integrity of the program and our nation's security. USCIS maintains a continuous focus on improving, refining and streamlining the security check process for refugee applicants. In the year ahead, we will maintain this focus as we interview increasing numbers of Congolese and Syrian refugee applicants in Africa and the Middle East. We will also continue to carefully monitor the security situation in the locations in which we travel to ensure the safety of our officers, program partners and refugee applicants.

International Operations

Over the past two years, USCIS has realigned its international footprint to better optimize its international presence and resources by adjusting staffing levels in certain international locations and closing three offices, given the significant reduction in workload in those offices following the centralization of the filing and adjudication of waiver applications in the United States. USCIS also has enhanced the integrity of its programs by expanding the use of secure boarding foils in lieu of travel letters for certain benefit types in partnership with the Department of State.

USCIS has worked with the Government of Guatemala, in partnership with the Department of State, to facilitate resolution of long-pending adoption cases filed by U.S. citizens. Guatemala has made significant progress in the past year and only 32 cases remain pending from approximately 3,000 that were in process when the Hague Adoption Convention entered into force for the U.S. on April 1, 2008.

EB-5 Program

USCIS continues to enhance the EB-5 Immigrant Investor visa program, both to improve efficiency and service delivery and to provide greater security. USCIS has centralized EB-5 program operations in Washington, D.C. This unit, augmented with staff with expertise in economics and transactional law, are dedicated solely to the review and adjudication of EB-5 petitions and applications. In May 2013, USCIS published a comprehensive policy memorandum to guide EB-5 adjudications. On the security side of the program, USCIS has expanded security checks to cover Regional Centers and executives participating in the program, and has embedded FDNS officers and intelligence professionals to work alongside EB-5 adjudications officers. In order to provide information to stakeholders, USCIS now hosts a series of quarterly stakeholder engagements.

E-Verify

E-Verify is a critical program within the Department that encourages and assists employers in their compliance with our immigration laws. We are doing everything we can not only to optimize performance of the system but to ensure its integrity and accuracy, improve ease of use, and expand customer services. I am committed to building on the success of this program that continues to enroll approximately 1,500 new employers per week in addition to the more than 539,000 employers already enrolled covering more than 1.6 million worksites.

The latest E-Verify accuracy study from 2012 found that the percentage of authorized workers who were not automatically confirmed declined from 0.7 percent in 2005 to 0.3 percent in 2010. The study also looked at the accuracy rate of final nonconfirmations issued by E-Verify and found that they were accurately issued to unauthorized workers 94 percent of the time.

USCIS continues to improve E-Verify's accuracy by increasing the number of databases checked by the system and introducing quality control enhancements designed to reduce the likelihood of data entry errors. In 2012, we launched Self Check as a service that helps

employees proactively identify and resolve data issues outside of the hiring process that could help prevent data mismatches with the E-Verify system. Before users can check their employment authorization records, they must pass a third party “identity assurance” quiz to ensure that the system is not being misused.

We are working hard to further improve E-Verify’s ability to detect identity fraud. USCIS has already added the ability to view photos associated with DHS-issued immigrant status documents to the system and U.S. passport photos. We have also significantly enhanced our capabilities to monitor system use for evidence of identity fraud, and in FY 2013 we began locking Social Security numbers (SSNs) in E-Verify that are suspected of fraudulent misuse. We are developing a FY 2014 enhancement to allow individuals to lock their SSNs in E-Verify so they cannot be used by others who work for E-Verify employers. And in four states, USCIS has deployed “Records and Information from DMVs for E-Verify” (RIDE) which allows employers to check the authenticity and validity of driver’s licenses and state identification cards. Talks with additional states are ongoing to continue the expansion of RIDE.

It is important to note that E-Verify is but one tool in the Department’s efforts to ensure a lawful workforce. USCIS continues to implement improvements to E-Verify this year using the \$114 million in funding Congress provided for FY 2014, and we plan to further improve the system in FY 2015 and beyond. In the upcoming fiscal years, USCIS plans to increase the scalability of E-Verify’s technical infrastructure for future expansion and establish a formal process by which individuals can request a review of their final case outcomes in order to help reduce erroneous results.

Transformation

USCIS has undertaken an enterprise-wide Transformation Program to transition the agency from a fragmented paper-based operational environment to a centralized and consolidated environment facilitating electronic processing requests for immigration benefits. Our goal is to modernize USCIS-wide business processes using information technology enabled re-engineering. The USCIS Transformation Program is implementing this vital initiative through the Electronic Immigration System, or ELIS. ELIS will employ the types of online customer accounts used in the private sector to manage transactions, track activities, and enhance security. The revised processes enabled by ELIS will help the agency meet customer expectations for on-demand information and immediate real-time electronic service over the Internet.

Progress has been made since the last time my predecessor as USCIS Director testified before your Subcommittee on Immigration and Border Security. In May 2012, USCIS deployed ELIS. The initial launch provided the core capability for electronic filing, processing and adjudicating of one benefit type. Earlier expectations had been high, and at the time of the first deployment the Transformation Program was behind schedule and over budget for this first release.

Due to the cost and schedule challenges, the Office of Management and Budget reviewed the program in March 2012. As a result of this review, we made four significant program changes.

The first change was streamlining the governance process by dispersing decisions to the lowest required level. DHS delegated acquisition and milestone gate decisions to the agency's Transformation Executive Steering Committee to review the cost, schedule and performance of the program.

The second program change involved the methodology for developing the software. Initially, we utilized the waterfall methodology which is a classic approach to software development that involves a sequential design process with each phase being 100% completed before going to the next phase. In this approach, changes could not be incorporated easily. We are now using a development methodology known as Agile, which is used in the private sector. Agile methodology is based on iterative and incremental development. It is more flexible and offers more frequent value-added releases to USCIS ELIS.

The third program change was to simplify the system's architecture. The deployed system has 29 proprietary Commercial-Off-The-Shelf products. The new architecture will have an open-source code framework that allows for development and production using the Department of Homeland Security Cloud services. The new architecture is using best practices and removes products that duplicate other USCIS products.

Lastly, the acquisition strategy was changed from a single developer and systems integrator to a strategy of multiple contracts for and supporting software development with the government as the integrator. This new strategy was approved two years ago by the Transformation Executive Steering Committee. We have awarded contracts to support architectural design, integration and configuration management, and coaching for agile processes. The final contracts that will support development were awarded this month with new resources starting at the end of September.

Since the initial launch of USCIS ELIS, USCIS has added more capabilities to include allowing new immigrants to pay the USCIS Immigrant Fee and foreign investors to electronically file the Immigrant Petition by Alien Entrepreneur.

The next added capability will be in the new architecture and will support the Form I-90, Application to Replace Permanent Residence Card. Deployment in the new architecture is expected by the end of the year. The new architecture, once completed will support multiple contractors working together, faster development and better quality. The new architecture supports rigorous and ongoing performance and end user testing before deployment. Finally, the new architecture will support operations in the DHS cloud environment. This will eventually allow for expansion should workload increase.

The overall program is expected to be completed in fiscal year 2018 or 2019; however, new user functionality will be deployed at a minimum of every four to six months. The Transformation Program remains focused on delivering innovative capabilities to support the USCIS mission. The Transformation Executive Steering Committee will continue to guide the pathway, will include all appropriate stakeholders at the table for participation during future capability development opportunities, and will strive to ensure that the capabilities are delivered on time and within budget.

USCIS Implementation of *United States v. Windsor*

I am very pleased to inform the Committee that USCIS took immediate and proactive action following the decision of the Supreme Court in *United States v. Windsor* on June 26, 2013, which held unconstitutional section 3 of the Defense of Marriage Act (DOMA). DOMA had previously required USCIS to deny marriage-based immigration benefits to same-sex married couples. Shortly after the *Windsor* decision, USCIS announced that it would provide couples whose same-sex marriages are lawful in the state or foreign country where they were celebrated with marriage-based immigration benefits on an equal basis with opposite-sex married couples. USCIS also took prompt action to identify and reopen, on our own motion and without fee, more than 150 cases which the agency had to deny on the basis of DOMA for a new adjudication to take full advantage of the *Windsor* decision. In the last year, USCIS also has received and favorably adjudicated numerous new petitions and applications seeking immigration benefits based on same-sex marriages, and we will continue to do so.

Challenges and Path Forward

While USCIS has made vast improvements in both customer service and reduced processing times, USCIS also faces significant challenges that it is working to overcome. There is a great deal to do, but there is a great deal we can do and I am excited by the opportunities which lie ahead for us. As the Director of this agency, I am committed to maintaining a strong focus on improving our performance in all program areas even in the face of challenges. We must be even more efficient out of respect for the customers who pay fees and the taxpayers who support our operations. Our customer service must continue to be enhanced. USCIS activities must continue to be transparent and we will continue to work closely with our stakeholders and the public at large to collaborate on the outcomes we collectively want and need to achieve.

I appreciate the support and interest of this Committee in our efforts. I look forward to working with you on these and other matters critical to the transparency, integrity, consistency and efficiency of our immigration system and the work of USCIS. I look forward to your questions.

Mr. GOODLATTE. Thank you, Director Rodriguez.

With the indulgence of the Committee, I would like to take a few minutes away from this hearing to talk about someone who was a dear friend of mine, a mentor, and a Member of the House Judiciary Committee, my predecessor representing the Sixth District of Virginia, Congressman M. Caldwell Butler, who passed away last night around midnight.

He served in the House of Representatives from a special election in 1972 until his retirement at the beginning of 1983. He served on this Committee, I believe, that entire time.

And he served here with great distinction at a time when this Committee went through some very difficult issues, including his being very actively involved in the Watergate investigation and in the impeachment proceedings related to former President Richard Nixon.

He was a public servant in the truest sense of the word. He has given immeasurably to his country, his State, and his community, Roanoke, Virginia, where he lived his entire life, and to which he was extremely dedicated.

He attended the Roanoke public schools, and he earned an undergraduate degree at the University of Richmond and his law degree from the University of Virginia. He was admitted to the Virginia bar in 1950, and he commenced practice in Roanoke. He also served in the United States Navy.

He served in the Virginia House of Delegates from Roanoke from 1962 to 1971, and served as the minority leader from 1966 to 1971.

He was a friend of everyone who knew him, and someone who I had great respect. He will be badly missed. His wife, June, passed on just a month ago. And it is a great loss for the Roanoke community and for our country.

And I thank the Committee for allowing me to remember him for a few moments here.

Mr. CONYERS. Mr. Chairman?

Mr. GOODLATTE. The gentleman from Michigan served in the House of Representatives and on this Committee with Congressman Butler, and I would love to recognize him for a few words.

Mr. CONYERS. I thank you very much, and so did Zoe Lofgren serve with him.

I remember him very well. There are very few conservatives that I remember going back that far as clearly as I remember him, because he was an impressive Member of the Congress.

We exchanged views on an almost regular basis, but our friendship was never impaired by the different perspectives that we had on how government should run. So I join you, Mr. Chairman, in observing and remembering a distinguished Member of the House Judiciary Committee.

I would like to yield to the gentlelady from California, for any comments you might make.

Ms. LOFGREN. I appreciate your yielding.

I was a young law student working for Congressman Don Edwards, also a Member of the Committee, and I remember Mr. Butler very well. He was a person who we all admired, even if we did not agree on everything that he thought. He was a man of tremen-

dous principle, totally honest, and totally brave in standing up for what he thought was right and the Constitution.

He will be greatly missed. I count myself as one of his many admirers, and I remember him quite fondly from my days as a young staffer.

I thank the gentleman for yielding.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. GOODLATTE. I thank the gentleman from Michigan and the gentlewoman from California for their remarks.

We all offer our sincere condolences to the Butler family. They are in our thoughts and prayers in this difficult time.

It was a great honor to know and to have the privilege of working for Caldwell Butler. I learned a great deal from him over the years. And his guidance and wisdom will be missed by me and many others.

I thank you all for allowing me to say a few words.

We will now turn to the questioning of Director Rodriguez.

Director, I know that you are new to the job, so I would like to get your perspective on some things that have concerned us greatly and see whether there is an opportunity to correct some things, or to clarify what the USCIS is doing in certain areas.

As I mentioned in my opening statement, question 21 of the revised Deferred Action for Childhood Arrivals, or DACA, frequently asked questions, states, "Will USCIS verify documents or statements that I provide in support of a request for DACA?"

And the USCIS answer is, "USCIS has the authority to verify documents, facts, and statements that are provided in support of request for DACA. USCIS may contact education institutions, other government agencies, employers, or other entities in order to verify information."

This answer seems to put applicants on notice that USCIS in most cases will not in fact verify the validity of documents submitted to satisfy eligibility requirements. And thus, the frequently asked questions invites fraud.

If USCIS takes seriously its stated antifraud commitment, why is it a good step to basically notify potential applicants that documents will not be verified?

Mr. RODRIGUEZ. I really appreciate the opportunity to work with you and this Committee on various concerns that they may have. And as I understand the concern here is the suggestion that there will not be a systematic verification of the authenticity of documents presented at the time of DACA renewals.

It is my understanding that there is scrutiny of these documents, certainly at the time of initial application. We have a robust fraud detection and national security directorate that includes a number of former law enforcement and military officials among its ranks that engages in a variety of systematic checks of any individual who seeks any sort of benefit from USCIS as to criminal history, terrorist behavior, possibly other threats to the United States.

And our adjudicators also receive training, so that they can in appropriate instances flag applications for benefits that appear to present fraud.

It is for that reason that the agency felt comfortable in saying that in the ordinary course of business, while there would not be

a specific attempt to authenticate particular documents, that there is an ability that our adjudicators have to look at documents. And if they do present concerns at the time of the review during the adjudication process, to flag those applications for further review.

Mr. GOODLATTE. A great many applications contain fraudulent documents. It would seem to me that a better policy would be to say that the documents are going to be reviewed and to leave applicants with the impression that they should not submit fraudulent documents, that they will be checked, and that if they are found to be fraudulent, that there are severe consequences that would befall someone submitting fraudulent documents to your organization.

Mr. RODRIGUEZ. Mr. Chairman, I appreciate the concern that you have raised. I am in the process right now of reviewing all of the agency's processes. Certainly, one of the things that I will be dedicating special attention to are any issues related to national security or fraud. Those are, certainly, high priorities for me.

Mr. GOODLATTE. Thank you. Let me go on to another question.

The President has indicated his intention to continue to act administratively to change U.S. immigration policy when and if Congress does not do so in a manner to the President's liking.

He has previously acted on DACA, expansion of parole, reducing the issuance of notices to appear for unlawful immigrants, prosecutorial discretion regarding removal of unlawful and deportable aliens, and several other means.

As you entered the agency a few weeks ago, you must have received a briefing on the status of the next administrative action. Would you please tell us what is next on the President's agenda?

Mr. RODRIGUEZ. Let me be clear, and I think the Administration has also been clear about this, no decisions have been made. The directive that we have received is to examine possibilities for different avenues to exercising that prosecutorial discretion. I know that our Secretary is in a process of engaging with frontline employees at DHS, Members of Congress from both sides of the aisle, and stakeholders from a broad spectrum of American society.

That process is ongoing, and no decisions have yet been made in that process.

Mr. GOODLATTE. The Speaker's Border Crisis Working Group, of which I am a member, recently met with Secretary Johnson. During that meeting, I asked the Secretary what would be needed in order to address the surge in those claiming credible fear. Secretary Johnson indicated that a change in law to strengthen the credible fears standard would be necessary to fix the current situation.

Do you agree with Secretary Johnson that such a fix is needed?

Secretary Johnson then said that while a fix is needed, now is not the appropriate time to fix the credible fear standard. When claims have gone from 5,000 to an estimated 50,000 in a short number of years, and your testimony indicates that those claiming credible fear are part of the surge, why is this not the time to fix this weak standard?

Mr. RODRIGUEZ. I would like to put this issue in a little bit of perspective. At this point, roughly 15 percent of individuals being apprehended at the border are presenting credible fear claims. We

have surged our own capacity to address these claims. We have moved personnel to the various border processing areas, such as Artesia, to process those claims. We have accelerated our review time to a period of 8 days, so as to ensure——

Mr. GOODLATTE. Thank you.

Mr. RODRIGUEZ. I am sorry.

Mr. GOODLATTE. Go ahead.

Mr. RODRIGUEZ. Yes, so as to ensure that we adjudicate those claims as efficiently as possible.

I think that because at least USCIS has been able to surge in that manner, I think that is the basis for which the Secretary may have suggested that now may not be the time to address this particular issue.

Mr. GOODLATTE. In point of fact, the initial credible fear hearing is now resulting in 92 percent of those cases being approved to move on to the next status in the process, which involves the detention of people or releasing those people into the United States. As we know, a great percentage of those do not return for their subsequent hearing. So it would seem to me that increasing that standard, and doing it now, would send word to people that if they truly are seeking political asylum in the United States, they should state that when they come to this country and be prepared to show that it is at least as likely than not that they have a case that deserves to go on to that final hearing, rather than simply being rubberstamped through, as I would argue they are being now.

Mr. RODRIGUEZ. Congressman, I think I would not necessarily adopt the view that these claims are being rubberstamped through.

On my third day in office, I sat in on a credible fear interview. I am a former prosecutor. I have conducted probably thousands of interrogations myself. I was very favorably impressed, actually, by the quality of the interrogation that I saw, by the probing nature of the interrogation that I saw. So I do think these interviews are being conducted in an effective manner.

That said, the legal standard to establish credible fear is obviously a threshold standard that only then qualifies the individual for later adjudication.

Mr. GOODLATTE. But those later adjudications are now rising to approval rates that approach 70 percent, which is, to my knowledge, much higher than it has been in previous years.

Mr. RODRIGUEZ. In acknowledging that concern, Chairman, I look forward to a continuing conversation about this issue.

Mr. GOODLATTE. The Chair thanks the gentleman. The time has expired.

And the Chair recognizes the gentleman from Michigan, Mr. Conyers, for his questions.

Mr. CONYERS. Thank you, Mr. Chairman.

Would you discuss, Director Rodriguez, the sheer numbers that we are talking about? How many young people have come across our southwest border so far this year and last year and the year before?

Mr. RODRIGUEZ. Congressman, I apologize that as I sit before you, I can't tell you the specific numbers. Certainly, those numbers have grown over time. They remain essentially in the tens of thousands. But it is a fact that those numbers continue to grow.

Mr. CONYERS. I have 50,000 for 2013, 25,000 for 2012, and an even lesser number for 2011. Does that figure in agreeably with your thoughts on this?

Mr. RODRIGUEZ. My general understanding is that the trend until very recently was an upward trend. I think that trend has begun to level off.

One thing I would note is I have actually started reading Latin American newspapers in Honduras, Guatemala, and El Salvador. Spanish is actually my first language. And there are increasingly stories in that media, one, about individuals being returned; two, about the fact that DACA offers no benefit to these individuals.

And I think that, and the marshaling of efforts by the government, specifically by my agency, appears possibly to have started to take some effect with individuals in Central America.

Mr. CONYERS. Now, what about personnel? I mentioned that just a handful of judges and so forth here. I don't think we can realistically, on your 15th day in office, ask you why we aren't doing more when I have some pretty low figures of personnel that you have.

Mr. RODRIGUEZ. Well, this is actually my fifth transition, Congressman, into a new agency. One of the key aspects of doing that is that you need to be ready to drink from a fire hose, jump on a 100 mile an hour train, chew gum and rub your head all at the same time. So I have been busy trying to do exactly that.

What I do know is the agency has recognized this additional burden. It has added 150 asylum officers, or is in the process of adding 150 asylum officers, noting the additional demands that are being placed on it, at least in part by the situation at the border.

Mr. CONYERS. You were the lead attorney in *United States v. Flores*, which involved enslavement of Mexican and Guatemalan nationals who had been smuggled from border areas in Arizona to farms in South Carolina and Florida. What, if you can recall, did you get out of that experience in working with vulnerable populations? And how do you think it may positively affect your work as the director of this very important office that you hold now at United States Citizenship and Immigration Services?

Mr. RODRIGUEZ. Thank you, Congressman Conyers, for that question.

Prosecuting that case really was a career highlight for me. On many levels, I have to tell you, I was inspired by the stories of the victims that I met in that case. These were individuals very often from indigenous areas of Guatemala. For many of them, Spanish was actually a second language. Their first languages were actually indigenous dialects in those countries.

Yet, these were strong, hardworking, really amazing individuals. And the opportunity to vindicate their rights and to fight the victimization that had occurred to them was really an important career opportunity for me.

It, certainly, sensitized me to the fact that human trafficking and labor exploitation are very serious problems that particularly befall individuals who work in our shadow economy, as these individuals did. And that, certainly, will influence, will sensitize me to certain issues that USCIS faces.

Mr. CONYERS. Well, I think your experiences have prepared you well for your responsibility. We want to work as closely as we can.

This Committee has a great concern about this challenge at our southwest border, and we would like to stay in touch with you far past your 2 weeks and 1 day on the job.

Mr. RODRIGUEZ. I look forward to a very fruitful relationship, Congressman. Thank you.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. SMITH OF TEXAS [presiding]. Thank you, Mr. Conyers.

The gentleman from North Carolina, Mr. Coble, is recognized for his questions.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Rodriguez, good to have you with us this morning.

Mr. Rodriguez, the Bush administration required that certain employers, such as Federal contractors, those employing foreign students in the optical practical training program, and others, use E-Verify. What plans do you have to expand mandatory E-Verify use?

Mr. RODRIGUEZ. Right now, there obviously are a very limited segment of employers who are actually subject to mandatory E-Verify. I have been pleased to see that the accuracy rate for E-Verify is at a very high level and that our ability to adjudicate temporary nonconfirmations appears to be very effective, and that employers who utilize E-Verify report very high levels of satisfaction with that system.

Our agency has, in fact, prepared a report to this body, which was delivered some time ago, that talked about what would be required to move to universal mandatory E-Verify. It is a capability that we could achieve. And I look forward to continuing conversation about how we get there.

Mr. COBLE. I thank you for that.

How do you ensure that those employers required to use E-Verify, such as Federal contractors and employers of students in the optical practical training program, are in fact using the system?

Mr. RODRIGUEZ. Congressman, I will acknowledge that, as part of the many things I am trying to learn as I come onto the agency, I have not yet had the opportunity to be briefed on that specific issue. I, certainly, would look forward to following up with your office about the steps that we take to verify utilization by that particular portion of employers.

Mr. COBLE. If you would keep us current on that, I would be appreciative to you.

Mr. RODRIGUEZ. You can count on it, Congressman.

Mr. COBLE. When will the USCIS implement its programs to allow individuals to lock their Social Security numbers for work authorization purposes in an effort to prevent the number from being used fraudulently to obtain employment or a job?

Mr. RODRIGUEZ. I do understand that we have the capacity to lock Social Security numbers in those instances where we believe a Social Security number is being used fraudulently. I am not familiar with the ability of specific individuals to lock their own Social Security numbers. I imagine they can ask us to do it.

Again, that is an area where I look forward to working with your office to make sure we get you the answers you need.

Mr. COBLE. I thank you, sir.

Mr. Chairman, I yield back.

Mr. SMITH OF TEXAS. Thank you, Mr. Coble.

The gentleman from Virginia, Mr. Scott, is recognized.

Mr. SCOTT. Thank you, Mr. Chairman.

And thank you, Mr. Rodriguez.

Just a bit about the present process. If we are going to shorten the waiting period for determining status, obviously, we have to hire more personnel. Who do we need to hire, and how much would it cost to significantly reduce the time for hearings?

Mr. RODRIGUEZ. I am in the process right now of reviewing various issues related to wait time. I do know that there was a time when, for example, our I-130 petitions, the family petitions, where the wait time for those had become unacceptably long. The agency has been able to restore the wait times to about 5 months, a more acceptable timeframe.

I am going to continue as part of my transition into the agency to look at this issue of wait times, to ensure that we are moving as sufficiently as possible.

It is important to note that we are a fee-funded agency. There are pressures on us from all sides to do all kinds of things with our fees. We need to live within our budget, is the bottom line.

So we are going to continue to look at how we operate most efficiently and deliver the highest level of customer service within the fee structure that we have.

Mr. SCOTT. You mentioned 5 months. What is your goal? Is there any way you can get down to a couple days?

Mr. RODRIGUEZ. The goal for those is about 5 months. I am not sure that we would ever be in a position to get it down to a couple days for those family petitions.

There are other categories that we are able to process far more quickly. In some cases, we are required by law actually to process certain benefits more quickly.

That goal really represents, over time, what has been seen as the target time for adjudication of those particular benefits.

Mr. SCOTT. Now, people are entitled to attorneys at their own expense. I understand in many cases there are pro bono attorneys available. Is that true?

Mr. RODRIGUEZ. I have no doubt that there are pro bono attorneys who are available to assist people with various aspects, various immigration issues.

Mr. SCOTT. What do lawyers typically charge for these cases when they are paid?

Mr. RODRIGUEZ. I don't know, Congressman. Actually, just having been a former private practice lawyer myself, I imagine there is a wide variety of what lawyers may cost in this particular field.

Mr. SCOTT. If someone is deported, where do they go?

Mr. RODRIGUEZ. Where do people go if they are deported?

Mr. SCOTT. Right.

Mr. SMITH OF TEXAS. Director Rodriguez, your mike is not on. You might want to repeat that last sentence.

Mr. RODRIGUEZ. Sorry. My agency, of course, Congressman, does not handle deportations and enforcement and removal.

I did have some little bit of experience as a private practice lawyer with the removal process. This can vary a lot. My understanding, generally, is that people are in detention, in some cases.

And at some point, they are sent back, generally flown back to their country of origin.

But honestly, because it is not what my agency does, I am not fully familiar with that process.

Mr. SCOTT. We have had an influx of young children coming to our borders. Have other countries experienced similar influxes?

Mr. RODRIGUEZ. I am at least aware that Mexico has had its own influx driven by many of the same factors as the individuals coming to our country. I am not fully familiar with where else those individuals might be going.

Mr. SCOTT. Mr. Chairman, I yield the balance of my time to the gentlelady from California.

Ms. LOFGREN. Thank you, Mr. Scott.

I will have many questions, but I wanted to address the issue of in absentia rates.

Oftentimes, we hear complaints that the unaccompanied children don't show up for the immigration hearings. In fact, I have heard some of my colleagues across the aisle say 90 percent of the kids do not show up. PolitiFact correctly ruled that claim as false. Most recently, the Department of Justice testified before the Senate that half of the kids show up.

But we now have a complete picture, because the American Immigration Council has analyzed the raw immigration court data made public by the Transactional Records Access Clearinghouse. They looked at every single case of juveniles appearing in immigration court beginning in 2005 through June of this year.

Looking at only closed cases of children not detained, over 60 percent of the children appeared in immigration court.

But here is an important data point: When the child has a lawyer, 92.5 percent of those children appeared in court. It never dipped below 89 percent in any fiscal year.

So I would like to ask unanimous consent to put in the record that analysis prepared by the Immigration Policy Center, indicating this very high appearance rate.

Mr. SMITH OF TEXAS. Without objection, the analysis will be made part of the record.

[The information referred to follows:]



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TAKING ATTENDANCE: New Data Finds Majority of Children Appear in Immigration Court

As the number of unaccompanied children arriving at the United States border has increased, some lawmakers have argued that children frequently fail to appear for proceedings and thus proposed mandatory detention as a solution. Some say as many as 90 percent fail to attend their immigration court hearings.¹ Yet government data recently published by Syracuse University's Transactional Records Access Clearinghouse (TRAC) indicates the opposite.² Not only do a majority of children attend their immigration proceedings, according to TRAC, but 90 percent or more attend when represented by lawyers.

TRAC Data Offers Comprehensive Look at Children in Immigration Court

TRAC's data, obtained through the Freedom of Information Act, examines 101,850 immigration court proceedings begun while a child was under 18, from Fiscal Year (FY) 2005 through June 2014.³ The information tabulated in TRAC's database includes data on both completed cases, in which there was an official outcome, and cases still pending. The data also includes information on "*in absentia*" cases, Latin for "in absence," which is a term for a judicial hearing held without the individual present. Any delay in appearing at any immigration hearing may lead to a court removing someone *in absentia*.⁴ The Department of Justice's Executive Office for Immigration Review (EOIR), which runs U.S. immigration courts, uses a similar methodology of reporting "*in absentia*" numbers as its best available indicator of failures to show. However, EOIR has not historically broken out children's cases.⁵

The following analysis uses the TRAC data to determine rates of appearance in court based on completed cases. Additional analysis of all cases, both completed and still pending, also provides a snapshot of overall current appearance rates to date.

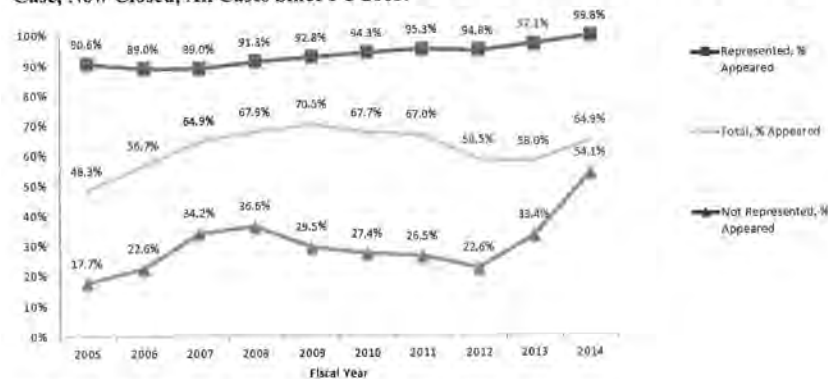
Children Appear in Immigration Court

Analyzing TRAC's data shows that juveniles who were not detained or released have a lower *in absentia* rate than previously reported. Not only do a majority of children appear in immigration court, but the vast majority of children represented by lawyers appear.⁶

**Appearance Rate, Immigration Cases Begun Against
Children, Not Detained By End of Case, Now Closed, All
Cases Since FY 2005**

Represented	92.5%
Not Represented	27.5%
Total	60.9%

Appearance Rate, Immigration Cases Begun Against Children, Not Detained by End of Case, Now Closed, All Cases Since FY 2005.



Key findings are:

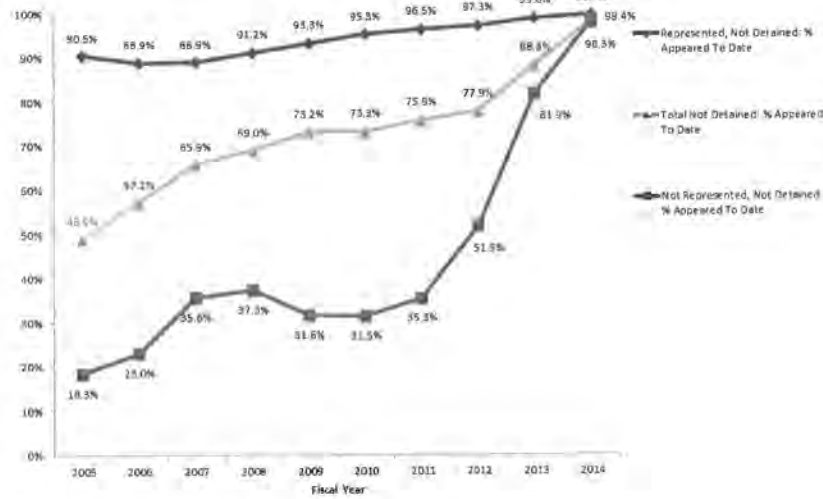
- For completed cases, **60.9 percent** of juveniles appeared in immigration court.
- **92.5 percent** of children represented by **lawyers** appeared for their court proceedings. This number is **historically consistent**—never below 89 percent since FY 2005.
- This data is consistent with reports from *pro bono* organizations that provide counsel to children. For example, New York's Safe Passage Project reported that of approximately three hundred children it screened, only two children failed to appear for immigration court hearings after they were matched with *pro bono* counsel.⁷

When Pending Cases are Factored In, Appearance Rates Are Even Greater

**Appearance Rate, Immigration Cases Begun Against
Children, Not Detained By End of Case, All Cases
Since FY 2005, Both Pending and Closed**

Represented	94.7%
Not Represented	66.3%
Total	78.6%

Appearance Rate, Immigration Cases Begun Against Children, Not Detained by End of Case, All Cases Since FY 2005, Both Pending and Closed



Key findings, when including pending cases, are:

- A greater **majority—78.6 percent**—of juveniles appear in immigration court, of those not detained in all cases. Moreover:
- The **vast majority** of juveniles represented by lawyers appear (**94.7 percent**).

Placement with Parents or Guardians Appears to Help Children Appear in Court

Additionally, TRAC's data calls into question claims by lawmakers that children, once placed with U.S. family (some without lawful status), will not show for immigration proceedings.⁸ Most do, according to TRAC:⁹

- In **79.5 percent** of cases (both closed and pending) in which a child was released or never detained, and in a parent or guardian's custody, the child has not been designated *in absentia*.
- For children represented by lawyers, **95.1 percent** of those in a parent or guardian's custody have not been designated *in absentia* (in both closed and pending cases).

Conclusion

Evidence obtained from EOIR's own data suggests that children appear in immigration court—and that when children are represented by counsel, appearance rates are even higher. This data suggests children's supposed failures to appear in court are red herring arguments—designed to place blame for the system's deficits on children themselves, rather than on courts' lack of resources to ensure a timely and fair process.¹⁰ Moreover, given TRAC's data showing the relationship between representation and attendance, the appointment of counsel to children may help ensure attendance at proceedings in a more cost-effective, humane, and fair manner.¹¹

Endnotes

¹ Dan Nowicki, "Flake, McCain claim that 90 percent of migrants skip hearings disputed," *Arizona Republic*, July 11, 2014, <http://www.azcentral.com/story/news/politics/immigration/2014/07/12/flake-mccain-claim-percent-migrants-skip-hearings-disputed/12563361/>.

² TRAC Immigration, Syracuse University, *New Data on Unaccompanied Children in Immigration Court* (July 15, 2014), at <http://trac.syr.edu/immigration/reports/359/> [hereinafter TRAC, *New Data*].

³ TRAC Immigration, Syracuse University, *Juveniles—Immigration Court Deportation Proceedings, Court Data through June 2014*, <http://trac.syr.edu/phptools/immigration/juvenile/> [hereinafter TRAC, *Juveniles Tool*]. The data encompasses every immigration court case begun in these years, and coded as "juvenile," since FY 2005—101,850 cases in total. See TRAC Immigration, *About the Data* (July 15, 2014), http://trac.syr.edu/immigration/reports/359/include/about_data.html [hereinafter TRAC, *About the Data*]. TRAC reports that immigration courts define a "juvenile" as a child under 18 when their immigration case begins, and appearing alone in court (which TRAC reports that EOIR defines as not being deported by DHS with a parent as a family unit). This data does not include children not processed through immigration court (such as Mexican children who accepted voluntary return).

⁴ U.S. Department of Justice, Executive Office for Immigration Review, Office of the Chief Immigration Judge, *Immigration Court Practice Manual* Ch. 4, 17, p. 82 (August 2009), at http://www.justice.gov/eoir/vll/OCJ/PracManual/ocj_page1.htm; 8 C.F.R. § 1003.26, *In Absentia Hearings*, <http://www.law.cornell.edu/cfr/text/8/1003.26>.

⁵ U.S. Department of Justice, Executive Office for Immigration Review, *FY 2013 Statistics Yearbook*, pp. P1-P4, "Immigration Courts: *In Absentia* Orders," comparing *in absentia* rates to case completions for all noncitizens; those never detained and released, separately; and the "not detained" (combining those never detained and released), <http://www.justice.gov/eoir/statpub/fy13syb.pdf>. See also Bipartisan Policy Center, *Child Migration by the Numbers*, p. 8 Fig. 8 (June 2014) (reporting EOIR data through 2012), at <http://bipartisanpolicy.org/library/research/child-migration-numbers>.

⁶ We arrived at this result, using TRAC's *Juveniles Tool*, by first calculating closed cases (all cases with an outcome other than "pending"), representation rates, and *in absentia* rates, by fiscal year. We then calculated a fourth variable, whether the noncitizen was detained. We then backed out from these numbers (1) those detained, and (2) of those not *in absentia*, 97 percent of those detained (since TRAC's numbers show that 97 percent of those detained in closed cases were not *in absentia*). By doing so, we calculated an appearance rate in cases of those not detained. These numbers appear to be consistent with TRAC's other reporting of detention rates.

⁷ See Safe Passage Project, *Statement to House Judiciary Committee*, June 25, 2014, at p. 2, <http://www.safeassageproject.org/safe-passage-testimony-to-congress-on-child-migrants/>.

⁸ Senator Lindsay Graham, U.S. Senate Committee on Appropriations, *Hearing: President's Emergency Supplemental Request* (July 10, 2014) (Q: "Are we turning children over to people here illegally? ... I think the chance of them showing up to a hearing is zero."), <http://www.appropriations.senate.gov/webcast/full-committee-hearing-president%E2%80%99s-emergency-supplemental-request>.

⁹ According to TRAC, EOIR tracks whether a child is listed as in the custody of a parent or guardian, or not. See TRAC, *About the Data* (“A significant number of unaccompanied children who are apprehended at the border have a parent already residing in the United States. If at some point, even after court proceedings begin, a parent or court-ordered legal guardian assumes custody of the child, then procedures call for the EOIR’s database to be updated to indicate this change in custody. This change is recorded by updating the particular juvenile case type.”). EOIR, according to TRAC, still lists the case as “juvenile,” however.

¹⁰ Dana Leigh Marks, President, National Association of Immigration Judges, *Letter re Special Concerns Relating to Juveniles in Immigration Courts* (July 22, 2014).

¹¹ American Immigration Council, *Two Systems of Justice* 10 (2013), at <http://www.immigrationpolicy.org/special-reports/two-systems-justice-how-immigration-system-falls-short-american-ideals-justice>; New York City Bar Association, *City Bar Welcomes NERA Report Finding Immigration Appointed Counsel Would Pay for Itself* (May 30, 2014), <http://www.nycbar.org/44th-street-blog/2014/05/30/city-bar-welcomes-nera-report-finding-appointed-immigration-counsel-would-pay-for-itself/>.

Mr. SMITH OF TEXAS. And the gentleman from Virginia's time has expired.

I will recognize myself for questions.

Director Rodriguez, my first one is this. Last Thursday, The New York Times reported on a leaked DHS memo laying out a program to allow individuals in Honduras who are not eligible for refugee status to be paroled in the United States.

As you know, historically, parole has been used in very rare instances on a case-by-case basis for temporary admittance, for urgent humanitarian reasons, or significant public benefit.

Your own Web site notices that parole "is used sparingly to bring someone who is otherwise inadmissible into the United States for a temporary period of time due to a compelling emergency."

Since the USCIS grants parole, would you tell the Committee how such a program intended for a large group of individuals would not be an illegitimate expansion of parole authority?

We use parole for aliens who are clearly not being persecuted. Why isn't that a violation of current law?

Mr. RODRIGUEZ. First of all, I think it is important to underscore that in this area as well, no decisions have been made. Secretary Johnson, my colleagues throughout DHS, recognize the significance, the importance of dealing—

Mr. SMITH OF TEXAS. Would you agree that if such were to occur, it would be unprecedented?

Mr. RODRIGUEZ. I would not be able to say.

Mr. SMITH OF TEXAS. Okay, give me an example of where there is precedent for such type of action.

Mr. RODRIGUEZ. Again, I think the main thing is that any parole program or any other sort of program would need to be according to certain criteria.

Mr. SMITH OF TEXAS. Assuming that the leaked memo is accurate, we have never had a program where individuals in another country have been able to take advantage of the system as the President, presumably, or you, have proposed. And I can't think of any precedent. Again, can you think of any precedent?

Mr. RODRIGUEZ. I could not specifically tell you whether there is or is not a precedent at this point.

I underscore that no decisions have been made.

Mr. SMITH OF TEXAS. Okay.

Mr. RODRIGUEZ. I will say that we are working very hard throughout DHS to find solutions to what we all agree is a significant issue being presented at our border.

Mr. SMITH OF TEXAS. Okay. If there is a precedent, we would all like to know it. But I assume since you can't think of one, that there is not.

Let me go to my next question. Even the USCIS union has stated that USCIS adjudicators are being pressured to "get to yes" on petitions and applications for immigration benefits.

Don't you agree that any USCIS emphasis on adjudicators having to make quotas on the number of applications or petitions adjudicated in a day undermines the integrity about which you seem concerned in your opening testimony?

Mr. RODRIGUEZ. You know, interestingly enough, Congressman, I think that for as many individuals that have told me that there

is a culture of getting to yes, I have heard other individuals saying that there is a culture of getting to no.

Let me suggest that the culture we need to have and the culture that I have observed is a culture of getting to the right answer.

Mr. SMITH OF TEXAS. Right.

Are you aware of any pressure on the adjudicators to try to get to an affirmative answer?

Mr. RODRIGUEZ. I am aware that those allegations have been made.

Mr. SMITH OF TEXAS. I know. But are you aware of any incidents where that has happened?

Mr. RODRIGUEZ. I am not aware of any specific incidents where that has occurred.

Mr. SMITH OF TEXAS. Okay. Let me go now to the program that has already been mentioned several times today that was unilaterally instituted by the President 2 years ago that has allowed almost 600,000 individuals to stay in this country who were previously in an illegal status.

Among the documents that could be proffered by these individuals to show that they were eligible for the program are educational records, employment records, and military records. What I would like to ask you is, how often does USCIS actually verify whether the educational records, military records, or employment records submitted are actually valid and are not an indication of fraud?

Mr. RODRIGUEZ. Congressman, I would not be able to give you a specific percentage as to when that occurs. What I would be able to tell you is that it is my understanding, based on my initial review of how our agency operates, that extensive training is given to our adjudicators.

Mr. SMITH OF TEXAS. I understand that, but if you are not going to verify the records, if you are just going to take them at face value, that is an open invitation to a lot of individuals to apply for the legalization program and have pretty good confidence that they are going to be approved whether they are eligible or not.

Mr. RODRIGUEZ. Well, but our people are trained to look for indicators of fraud.

Mr. SMITH OF TEXAS. Right. Why wouldn't you be able to give us an estimate as to how many out of 100 applications would be verified?

Mr. RODRIGUEZ. I am not able to. I am not sure that we have studied that in that way. It is the sense that I get from the staff that does this work that their judgment is that most of these documents are in fact valid and authentic.

Mr. SMITH OF TEXAS. Okay.

Thank you, Director Rodriguez. That concludes my questions.

The gentlewoman from California, Ms. Lofgren, is recognized for hers.

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. Director, I wanted to ask a little bit about how we are doing the credible fear interviews for families detained in Artesia. It is my understanding that the Committee staff has requested data regarding the positive and negative, and we don't have that yet. So

I am looking forward—I guess you don't have it yet, either—but we are looking forward to receiving that.

But here are some of the concerns that have been relayed to me.

Recent news reports indicate that there was a 9-year-old boy from Guatemala who threatened to commit suicide while he was there, if he was deported, but that he was sent back anyhow. There are other instances where families were put on a plane and then were taken off when consular staff was able to provide information that they would be killed if they were returned.

So here's my question: It is my understanding from attorneys who have represented some of the older children that the credible fear interviews are being held in groups. For example, a mother would be interviewed with her children present.

I think that is problematic, because if that mother has been the victim of rape or other kinds of serious matters, she may be reluctant to discuss that in front of her children.

Similarly, older children who might have been subject to sexual abuse might be reluctant to say that in front of a parent.

So I am looking to you to see, is it possible to have these credible fear interviews done with the necessary privacy to elicit actual truth from some of these individuals. And if they don't have a fear matter, they will be removed. But if they are in fact the victim of trafficking, we want to find that out.

Mr. RODRIGUEZ. Thank you, Congresswoman, for that question. It is my understanding that our staff is trained first to interview children, specifically in techniques required for interviewing children—I am a former sex crimes special victims prosecutor, and I know full well that is a different process than interviewing adults—and also, generally, for interviewing people who have endured some sort of trauma.

I am aware of the concern that you raise. As part of my transition, I will look into these particular concerns as soon as I can, and to determine whether there is anything we need to do differently.

Ms. LOFGREN. I appreciate that, and we will look forward to receiving further information from you.

I wanted to address the issue, just briefly, of the data that was recently transmitted by the department about the number of unaccompanied children applying for asylum. And I would ask unanimous consent to put my analysis in the record. But I think it is flawed data because it does not include the children who received special immigrant juvenile status because a State court has found them to be abandoned, and certain key trafficking victim visas and the like.

So I would ask that you review that analysis, Mr. Director, and see if you concur in the analysis.

I also want to talk about the need for efficiency in the agency. It is tough to do, but coming from Silicon Valley, it is important to me that we do it once, do it right, and not come back.

For example, I recently had a situation that came to my attention from a business case where there was a request for evidence and notice of intent to deny that don't make any sense.

For example, in one case, there was an allegation that the businessperson had departed the country, but he hadn't. He had

been able to disprove that, but he had to prove it over and over and over again, the same point.

I am looking for you, prospectively, how do we get technology deployed so that these matters aren't re-litigated, wasting the time, not only of the government, but of the businesses and families that rely on quick resolution?

And then a final question on the 5-month I-130 delay. On the business side, we allow individuals to pay an additional fee for rapid adjudication of a matter. We haven't really gotten into that on the family side, but I am wondering if we can look at that.

For example, if you are an American citizen and you marry someone from another country, the 5 months might be fine. You have no plans to leave the United States, whatever. But if the spouse is a technology business guy in the valley, he has to travel all over. And it might be worth a substantial fee to get it resolved because of the need to travel.

So could you take a look at that opportunity, to see if the different family circumstances could be accommodated in that way?

Mr. RODRIGUEZ. Thank you for both of those questions.

I would like to share that, for me, one of my top challenges and top priorities is tackling our agency's information systems. In many cases, the systems that we have are either paper systems or legacy electronic systems that really are not enabling us to operate—we are operating very well, as much as anything else, because of the ingenuity and work ethic of our people. But we could be operating even better if we had the kind of modern information systems that we could use.

So for me, making sure that, at a minimum, before I conclude my tenure, that we can see the light at the end of the tunnel for those challenges will be a top priority.

I think your second question was whether we can look at the possibility of premium processing for other benefit areas than the kinds of business visas where premium processing is now utilized. I, certainly, will look into that and communicate with this Committee about those possibilities.

Ms. LOFGREN. Thank you, Mr. Chairman.

I yield back.

Mr. GOODLATTE [presiding]. The Chair thanks the gentlewoman.

The Chair recognizes the gentleman from Ohio, Mr. Chabot, for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman.

Thank you for your service, Mr. Director.

My first question would be this. My district is basically most of the City of Cincinnati, most of the greater Cincinnati area. We are down in the southwestern portion of Ohio. We oftentimes refer to our area as the tri-state area, because we have Kentucky right across the Ohio River and Indiana is right next to my district as well. So they call it the tri-state area.

There was an article recently printed in the Cincinnati Enquirer that indicated that thus far there have been 842 of these unaccompanied children that—let me ask you a question about that, first of all.

We keep referring to them as children. I have also seen an article recently that pointed out that actually something like 91 percent

of them are teenagers. To your knowledge, is that accurate? I understand, of course, that there is a big difference between a teenager that was 12 and just turned 13 and one that is 19 and just turned 20. But in your understanding, 90 percent or so of these folks would be teenagers, rather than like 5- or 6-year-old kids?

Mr. RODRIGUEZ. First of all, let me let you know that I spent a lot of time in your district. I had a case as a Federal prosecutor in Cincinnati and really enjoyed my time there.

The question really for us is a legal question. And under the law, these are children, in terms of what their rights are under the law.

Mr. CHABOT. I understand. I am an attorney as well. We called them for years infants even if they are under 21 years of age, the age of majority, which is now in Ohio, for example, come down to 18. So we call them infants, but, in general, terminology, when people think of infants, they are talking about a baby.

So my only question really thus far is, do you know, is it accurate to say that 90 percent—the article said 91 percent—but 90 percent of them are teenagers, meaning that they are from 13 to 19?

Mr. RODRIGUEZ. I don't know specifically what the age spread is of these children.

Mr. CHABOT. That is okay. Thank you.

So getting on to the question that I put the question within, so 842 are apparently going to the tri-state area. I think 360 of those are to Ohio, the State that I happen to have one of the districts in. Now exactly how many are in the greater Cincinnati area, it didn't point out.

But my question is this, it says that they are going to families, for example, going to individuals. They are trying to kind of farm them out to different people who are going to watch them until their hearings are ultimately held or whatever happens happens.

But how much of an effort is there to determine the legal status of the people who they are going to?

Mr. RODRIGUEZ. So, Congressman, what I would have to share is that I am a little bit outside my lane here, in the sense that the actual placement of these young people, these children, is conducted by the Administration for Children and Families at HHS.

Mr. CHABOT. So you don't know?

Mr. RODRIGUEZ. I really don't know what they do to deal with that.

Mr. CHABOT. Okay. Because it would seem to me that that would be, and I don't want to put you on the spot, but it seems to me that would be a pretty important thing to be determined by the executive branch of the government and probably the legislative branch ought to know that as well. But if we are taking folks who are here—and I hesitate to say they are here illegally, because of the way the law was written, which was supposed to deal with trafficking issues, where people were criminally trafficked, and so legislation was passed back in 2008, as we know. So there are some questions whether they are here legally or illegally.

But the point is, if people who don't have really legal status and a lot of Americans are concerned about our here, and we are putting them with people who are also here illegally, may be under different circumstances, that doesn't seem like a very good idea to me.

Would agree with that? Even if you don't know——

Mr. RODRIGUEZ. Again, I am outside my lane, so I don't want to substitute my judgment, either legally or for a policy matter, for the individuals who are actually responsible for that placement.

Mr. CHABOT. Okay. Well, let me cut you off because I have one other question I want to get to.

As you are probably aware, carnivals and the fair industry rely on Labor's H-2B seasonal guest workers to supplement their domestic workforce. These fairs are important to American agriculture as they not only serve as a primary showcase of our grown in America products for the public, but also for the important fund-raising, which supports youth and civic programs.

Beginning in early December 2013, a significant portion of H-2B employers in the mobile amusement industry paid premium processing fees for expedited USCIS handling of their H-2B petitions. Apparently, there is a long delay going on, relative to actually getting approval of these, and it is setting back a bunch of businesses across America.

Because I am running out of time, and it is going to be tough for you to answer the question, if I could have my staff follow up with you to see if we can't determine why that delay is happening and expedite that matter, so we can get folks hired here who we really do want to come legally, can we work together on that?

Mr. RODRIGUEZ. Yes.

Mr. CHABOT. I see a thumbs-up. I appreciate that very much. I noticed your staff are in the background nodding in the affirmative, so thank you very much.

Mr. RODRIGUEZ. Thank you, Congressman.

Mr. GOODLATTE. The Chair recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. I thank the Chair very much.

Mr. Rodriguez, congratulations on your prior service to this Nation and now a new start in your service to this Nation. The President as they say, befitted himself well, as he always does, in your appointment.

I think it is important to take note of what I heard as I came in, as you were explaining to Mr. Conyers an extensive background where you understand your responsibilities of enforcing the law, but you also understand the plight of people.

So let me start, first of all, by asking about the plight of people and the ability of this government to balance, particularly under Immigration Services following the law, those surges that may come for reasons of fleeing. And I know that there is Office of Refugee Resettlement that has dual hats in State and Homeland Security as well.

So why don't you just give me a brief philosophy. I have a short period of time, and I have some more pointed questions.

But just how do we balance that? You have been a prosecutor. We are on the Judiciary Committee. We are not calling for the violation of laws, but we are trying to find that balance. How do you see that balance?

Mr. RODRIGUEZ. Congresswoman, I certainly appreciate you pointing to my experience as a prosecutor. Every chief prosecutor

that I have ever worked for has exercised prosecutorial discretion in some way. They have determined priorities.

So when I was a street prosecutor, we knew that we needed to dedicate more prosecutorial resources to murderers than to individuals who were trying to get on the subway for free. So similar principles apply in our immigration processing as well.

I think your question is also how do we deal with surges. And one of the things that I have been pleased to see as the new director of CIS is we have dealt with surges in our work for different reasons at many different times.

In one respect, the first surge was actually the birth of our agency. Our agency was created in the early part of the Bush administration. It was separated away from the former INS. That required a huge lift by leadership and staff in order to make this now an independent, fully functioning agency.

When DACA came along, we had a surge as well. And we learned a number of very useful lessons from that experience, which we can apply for whatever surges we may face in the future.

Ms. JACKSON LEE. Let me thank you for that. You made a very valid point.

I just want to take a moment of personal privilege to acknowledge the late Leonel Castillo, who was a constituent of mine, a neighbor of mine, who was formerly an Immigration and Naturalization Services Commissioner under Jimmy Carter. It just came to my mind, and I am just making a moment of personal privilege on that.

I only say that because he seemed to have had that same philosophy. That was many, many years ago.

As I look at the work that you all have to do, 10 million applications, over 50 different types of petitions and applications. A prosecutor always lays out his or her case to win. I think you have to be orderly.

From your perspective, a comprehensive immigration reform structure, obviously, it is the work of the executive and Congress, but an ordering of the responsibility that you have which will then see an enhancement of staffing, it would see more resources because one of the proposals, of course, are the fines that individuals would pay to get in an orderly line, no, not in front of those have been in line.

What is your assessment on getting order to the immigration system in America?

Mr. RODRIGUEZ. So, of course, thank goodness, we are not charging fines. We are actually charging fees, because these are—

Ms. JACKSON LEE. And I stand corrected. They are fees.

Mr. RODRIGUEZ [continuing]. Immigration opportunities.

Ms. JACKSON LEE. There will be a multiple of fees.

Mr. RODRIGUEZ. That individuals are paying.

I think order is sort of one of our core business objectives.

Ms. JACKSON LEE. And would you add to that, because I see my time is going, you started out, but that we can deal with the question of dealing with humanitarian crises in your whole answer. Thank you.

Mr. RODRIGUEZ. Yes. We have to, of course, address those aggressively when they occur. I think that is the nature of your question.

Ms. JACKSON LEE. Well, the nature of my question is, that if we pass comprehensive immigration reform, you sort of put in order all that you are dealing with now. You have the ability through laws to address these questions. Would it be better to have an order that allows you now to get your hands around the many disparate aspects of immigration in this country, one of which are individuals here to work, who are already here in this country?

Mr. RODRIGUEZ. That is what we have done. That is what we will always do, is balance different lines of business for the most efficient processing across our lines of business.

Ms. JACKSON LEE. And the EB-5 petitions, are they something that you can work with as well that generates jobs and other aspects of economic opportunity?

Mr. RODRIGUEZ. Yes, the EB-5 petitions are. We are in the process right now of affecting some important changes that were started by now Deputy Secretary Mayorkas, among other things, centralizing our EB-5 processing and fully staffing the EB-5 office with economists and other sorts of professionals who will really enable us to very efficiently and correctly process those applications.

Ms. JACKSON LEE. Let me just say the Chairman and I have looked at this issue. I think we had some legislation that was moving at one point in time. So I am looking forward to the ordering of that, because I think there is merit to the EB-5, in terms of its investment, if it is in an orderly process, and as well the benefits that come. But I want to make sure that the benefits are not overly excessive for the investment in the job creation that is so very important.

I will just finish on this note. Is it important for a Nation that has shown itself to have been built on immigration and laws, to have a humanitarian element to continuing in this process of immigration, even in the 21st century? We know what we did in the 1800's, the 1900's, the 20th century, in terms of the flow of immigration. Do we still have that role now in the 21st century?

Mr. GOODLATTE. The time of the gentlewoman has expired.

The Chair recognizes the gentleman from Alabama, Mr. Bachus, for his questions.

Mr. BACHUS. Thank you.

We have had several words that have been used time and time again here this morning. I have heard the word "discretion." I have heard the term "humanitarian." You used the words "freedom" and "enterprise." You stressed pillars of our democracy.

But I have heard "discretion, discretion, discretion." I have heard you say that six times.

But what I haven't heard you say is "rule of law." You are a prosecutor. You enforce the law. My parents, your parents, are immigrants. They came here legally. They followed the law rule of law.

What I am seeing here is when you have a rule of law, there is a reason. And you may exercise discretion toward someone that violates that law, but there is also the victim.

You have dealt with a lot of victims. You met with those who have survived their death, a lot of times.

Someone on the Democratic side said "plight of the people." I would like to talk about those who are suffering from the President's actions on encouraging—and I think it is encouraging. He

admitted that DACA has incentivized unauthorized immigration, particularly with respect for children. He said that is a problem. That is why people are sending people here.

The plight of people. I am going to talk about a very conservative paper, and that is Cameron Smith, who is general counsel of the Alabama Policy Institute, a very conservative organization, and The New York Times. They agree on one thing. They said the program, talking about DACA, is benefitting some immigrants, but it extends the visa wait for others.

He talks about DACA and the lengthy backlogs on visa and citizenship applications where people are following the law. You mention all the people who have been transferred to the border from immigration to deal with these children. What The New York Times said, and this is an article I would like you to read, maybe when you get back, February 8, 2014: "The long waits came when the agency"—your agency—"shifted attention and resources to a program President Obama started in 2012 to give deportation deferrals to young undocumented immigrants, according to Administration officials." Not me.

They go on and talk about U.S. citizens petitioning for green cards for immediate relatives are at a high, if not the highest priority in the way Congress sets up the immigration system.

But there are nightmare story after nightmare story of a man coming back from Czechoslovakia, his wife, a citizen, having to wait 8 months and still not a hearing. A family in Australia, he is American, she is Australian, they have children. He has been back for 6 months. They are still there.

I don't think it was intended. In fact, the Congress also passed a resolution here, just July 8, saying there are now 900 children in Congo, Democratic Republic of Congo, waiting on being united with their adoptive parents here in the United States because Immigration quit processing these applications and assigned it to the State Department, and the State Department has slowed down on it.

Now I don't know why you did that, but there is a resolution—and I am going to submit for the record a letter signed by about 20 Democratic Senators, Elizabeth Warren, Mitch McConnell, a Republican, but on both sides, and about 90 of us from the House, who said please process these claims, please pay attention to the Democratic Republic of Congo and quit slowing these things up.

So the victims, just like The New York Times said, the program benefits some. DACA is benefitting some. You are having children coming here. You are offering humanitarian things.

But we have a lot of relatives and families who are being separated because you have taken resources, and even the Administration in this letter said you have taken, because of this plight of the border, some immigrants extending visa wait for others. These are people who go through the process.

Let me close with what Cameron Smith said in the Birmingham Business Journal. The governance by rule of law is being challenged, as it may be in times crucially important to the American system. By circumventing immigration law, the President has encouraged even more unlawful immigration. In response, America has a choice to either create yet another incentive for unlawful ac-

tivity by caring for immigrant children and attending to their health needs or processing those who are going through the system.

I would just like to submit this to you and say to you, please don't sacrifice families in Asia, families in Europe, and deploy all your resources about these children. It tugs at our heartstrings, but what you are not seeing are all these examples of people who are suffering.

And rule of law, you are a prosecutor, rule of law is what this country is built on.

Mr. GOODLATTE. The gentleman is very eloquent, but his time has expired. Is there a question in there to the director?

Mr. BACHUS. Well, if you could respond.

Mr. GOODLATTE. If he wants to respond, we will give him a brief response.

Mr. BACHUS. I don't know if you are aware of the resolution of Congress on the Congolese children.

Mr. RODRIGUEZ. I look forward to reviewing these materials. I am aware of the Congo situation. I look forward to discussing that with you.

I am committed to the rule of law. That is why, when I mentioned to Congressman Smith the question about the culture of getting to yes. To me, the culture is getting to the right answer under the facts and under the law.

And, absolutely, we have an obligation of stewardship to the people that you describe to run an efficient and fair system.

Mr. BACHUS. All right, thank you.

Mr. GOODLATTE. The Chair recognizes the gentlewoman from California, Ms. Chu, for 5 minutes.

Ms. CHU. Thank you.

First, I would like to put into the record this document from the Coalition for Humane Immigrant Rights of Los Angeles on their recommendations pertaining to oversight of USCIS at the Department of Homeland Security.

Mr. GOODLATTE. Without objection, it will be made a part of the record.

[The information referred to follows:]



COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

The Honorable Bob Goodlatte
 Chairman of the House Committee on the Judiciary
 The Honorable John Conyers
 Ranking Member of the House Committee on the Judiciary
 The Honorable Trey Gowdy
 Chairman of the Subcommittee on Immigration and Border Security
 The Honorable Zoe Lofgren
 Ranking Member of the Subcommittee on Immigration and Border Security
 2138 Rayburn House Office Building
 Washington, DC 20515

29 July 2014

Re: Oversight of US Citizenship and Immigration Services at the Department of Homeland Security

Dear Chairman Goodlatte, Ranking Member Conyers, Chairman Gowdy and Ranking Member Lofgren:

Since 1986, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) has worked diligently to advance the human and civil rights of immigrants and refugees in Los Angeles; promote harmonious multi-ethnic and multi-racial human relations; and through coalition-building, advocacy, community education and organizing, empower immigrants and their allies to build a more just society. An essential part of this effort has been to play our part in ensuring that community members are aware of the immigration benefits available to them, and especially to highlight the value of citizenship to those eligible to apply for it. To that effect, we work closely with the Los Angeles Field Office of U.S. Citizenship and Immigration Services (USCIS) in order to protect the immigrant community from fraud by *notarios*, disseminate materials and information while providing the agency with continual feedback regarding the needs of the communities we both serve. Accordingly, we welcome and share the Committee's commitment to provide effective oversight of USCIS, ensuring that it fulfil the considerable demands of its crucial mission. The following are some of the key issues on which we believe that the Committee needs to keep a special focus.

In the coming months, we are likely to see a welcome and hopefully significant expansion of the current Deferred Action for Childhood Arrivals (DACA) program. While DACA has been an unqualified success, it still excludes many who are worthy of the same protections including those who arbitrarily are viewed as aged out of eligibility. We believe strongly that DACA can be adjusted and reformed to include more of the DREAMers it targets, and that simultaneously USCIS can learn lessons from this pioneering effort in order to include as many community members as possible in any future similar program. The Committee must ensure that the Agency is adjudicating any such large program, likely to be accompanied by significant user fees, in the fairest manner possible.



COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

Similarly, we ask that the Committee continue to monitor USCIS' overall adjudication of immigration benefits - from work authorization for asylees and naturalization to the new provisional unlawful waivers (I-601A) - guaranteeing that no one who is eligible is denied unfairly. Wrongful decisions do not only impact the individual concerned but often their family as well, a family that in many cases has already suffered through long periods of uncertainty.

Of special concern to us are the asylum seekers arriving at our border, including the unaccompanied minors who have been the focus of so much harsh and unjust scrutiny. It is especially important that USCIS personnel take their role in establishing "credible fear" with the utmost seriousness and resist any attempts to politicize what can be a life saving decision. Similarly, it is extremely important that Agency continue to adopt strong confidentiality provisions in its application processes. Only then will the community feel confident in coming forward, and only then can we as a service provider encourage them to do so without reservation.

Should you have any questions or if we can be of any assistance, please contact our Director for Policy and Advocacy Joseph Villela at jvillela@chirla.org or our Policy Advocate Rita Medina at rmedina@chirla.org. We look forward to working with the Committee and the new USCIS Director Leon Rodriguez on providing the very best services to the immigrant communities that help make our country great.

Sincerely,

Angelica Salas, Executive Director
CHIRLA

Ms. CHU. Thank you.

Director Rodriguez, I am gratified to hear that you were a prosecutor and that you were in a strong position to challenge false claims, to tell truth from fact.

What I want to know is whether the current credible fear system works. I understand that the current credible fear asylum system is a robust process that requires an asylum seeker to demonstrate a significant possibility of succeeding in demonstrating a past persecution or well-founded fear of future persecution to an immigration judge.

So, Mr. Rodriguez, could you briefly walk us through what an asylum officer does when conducting a credible fear interview? And how does the officer test the credibility of an applicant? And how does an officer determine whether there is a significant possibility that the individual could be eligible for asylum?

Mr. RODRIGUEZ. Thank you, Congresswoman. I appreciate that question.

I don't mind sharing really one of the most important sort of transitional activities that I have conducted was actually sitting in on a credible fear interview.

It is important to note that the credible fear standard is a threshold standard. In other words, it is not the final determination of whether somebody gets asylum. It is simply a threshold determination to determine whether that individual who otherwise is in an expedited removal proceeding can fully assert those claims.

I observed the credible fear interview. I understood it to be based on a basic rubric that is used by the asylum office to evaluate those claims.

It asked questions specifically targeted to determine whether in fact the individual could potentially show a credible fear of persecution or torture, on various bases, race, national origin, membership in a particular social group.

From that interview, I was satisfied that there is an appropriate matrix of questions and appropriate training to our asylum officers to assess those individuals, given what is the threshold standard that applies under credible fear.

And I will be continuing to look into that to satisfy myself that my initial assessment is correct.

Ms. CHU. In fact, I would like to know about that training. It is my understanding that asylum officers receive extensive training to detect fraud and make credibility determinations, such as through the USCIS academy.

Can you elaborate on how they are trained to detect such fear? And would you say that USCIS officials are effective in detecting such legitimate cases of credible fear?

Mr. RODRIGUEZ. Thank you, because I realized that I hadn't answered that portion of your initial question.

Yes, the manner in which the questioning was done did ask questions that go to the question of whether the individual presenting the credible fear claim is themselves a credible person, in a sense, whether their story hangs together, whether it makes sense, given both the general facts, the country conditions, and the applicable legal standard in that case.

Now, I am not fully familiar with the exact training curriculum. That is something that I will look into and make a judgment about.

Ms. CHU. And then, are they effective?

Mr. RODRIGUEZ. And whether they are effective. My sense is that the interviews are effective. My initial assessment is that they are effective in determining whether that threshold standard is actually met.

Ms. CHU. There are those in the public who are saying that the increase in asylum applications are evidence of fraud in and of itself. I am struck by the fact that not only has the recent increase in credible fear claims been driven largely by an increase in claims from El Salvador, Honduras, and Guatemala, but the percentage of cases from those three countries that have resulted in a positive finding of credible fear have also been increasing.

Mr. RODRIGUEZ. Is there reason to believe that deteriorating conditions in those countries explain the increase in credible fear claims and the increase in credible fear findings?

Mr. RODRIGUEZ. Congresswoman, the deteriorating conditions in those countries are in fact well-documented. In terms of violent crime, human rights abuses, those sorts of concerns are in fact well-documented. In fact, there is reason to believe they play a role in the situation we are seeing at our border.

Ms. CHU. And are they to be distinguished from the other countries in Central America?

Mr. RODRIGUEZ. I am most familiar right now with the Northern Triangle, because it is really where a lot of our workload is coming from. I know that similar concerns have emerged from other countries in Latin America and, frankly, throughout the world.

Ms. CHU. And finally, temporary protective status for Filipinos. This is very important to individuals in my district. Since the devastation of the earthquake, we have been constantly asking for that temporary protective status, so that Filipinos could send remittances and get protective status. What is status of that?

Mr. RODRIGUEZ. I appreciate that question. There is, as you know, ongoing consideration as part of an interagency review process to determine whether temporary protected status should be granted in the case of the Philippines. That process is ongoing.

I do know that prior to my arrival, the agency expedited a number of other benefit categories, for which various Filipino nationals or Filipino immigrants might be eligible in order to afford relief to those individuals in that area.

We will continue to work on concluding the evaluation of the TPS process.

Ms. CHU. I hope it is soon, Mr. Rodriguez.

Mr. RODRIGUEZ. Thank you. I appreciate that.

Ms. CHU. Thank you. I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Virginia, Mr. Forbes, for 5 minutes.

Mr. FORBES. Mr. Chairman, thank you.

Mr. Director, thank you so much for being here today. Let's just cut to the chase. The President is not enforcing the immigration laws, because any time you issue an order for the massive unilateral nonprosecution of individuals who are breaking the law, that is, by definition, not enforcing the law.

And what bothers me even more than that, because I recognize there are some people on this Committee who don't want him to enforce the law, and other people who want him to enforce the law, but when we have the head of the ICE agents union sitting in the chair right beside you and the head of the Border agents union, 12,500 people, who, unlike you, have been on the job much longer than 3 weeks, who have conducted literally thousands of interviews with these individuals coming across the border, and they say unequivocally that the reason we are having this crisis is because of the President's policies, and they have told the President that through their agents, that is what concerns this Committee.

But one of the other concerns we have is this: They are concerned about gang members who are being released and coming through because their efforts are being taken somewhere else.

So I want to ask you this, in that probing interrogation that you talked about earlier that you were so impressed with, if during the background check or other information that is uncovered during the review of a request for deferred action, an individual's presence in the United States threatens the public safety or national security, is it not true that that individual will not be able to receive deferred action?

Mr. RODRIGUEZ. That is correct.

Mr. FORBES. All right. Does gang membership qualify as a threat to public safety or national security?

Mr. RODRIGUEZ. Without a doubt.

Mr. FORBES. Does former gang membership qualify?

Mr. RODRIGUEZ. In general, yes, former gang membership would also be a potentially disqualifying—

Mr. FORBES. If an individual renounces their membership in a violent criminal gang, are they eligible for asylum or withholding from removal? Or are they continued to be recognized as a potential public safety or national security threat?

Mr. RODRIGUEZ. Generally, they would be seen as a threat and denied a benefit. But again, these things depend on facts and circumstances.

Mr. FORBES. Your testimony earlier was that if they were a member of a gang, then they would be viewed as a public safety or national security threat.

Mr. RODRIGUEZ. That is correct. If they are a current member of a gang, then they would be—

Mr. FORBES. All right. Then my question is this, how do you know? I don't think they have ID badges or membership cards. Are you asking them in the interview if they were ever a member of the gang?

Mr. RODRIGUEZ. Among the things that I have prosecuted in the past is organized crime, specifically.

Mr. FORBES. I got all that. I just want to know.

Mr. RODRIGUEZ. I want to tell you about my ability to judge what I am seeing.

Mr. FORBES. I appreciate that. What I want to know is what your agency is doing in their interviews. Are they asking the question, "Are you a gang member or are you not a gang member?" when they are doing these interviews?

Mr. RODRIGUEZ. The agency through the Fraud Detection and National Security Directorate is doing a robust series of checks to determine whether an individual has a disqualifying criminal history.

Mr. FORBES. Are they asking the individuals if they have ever been a member of a violent criminal gang?

Mr. RODRIGUEZ. I am not able to speak to that specific question.

Mr. FORBES. See, that is what just absolutely frightens me, when you come in here and testify about the broad comprehensive nature we need to review and change this process, when that is asked of you by the other side of the aisle. But when we ask you a simple question on the fact that you have testified that gang membership constitutes a public safety or national security threat, and we don't even know if we are asking that question, that gives me cause for concern.

If you don't know whether we are asking the question, do you know what an individual would have to do to renounce that gang membership? Do they just have to say, "I am no longer a member?"

Mr. RODRIGUEZ. Congressman, I am looking into those issues right now. It is my understanding that we have generally been very effective at screening out individuals who pose some sort of national security or criminal justice threat.

Mr. FORBES. Mr. Director, I don't want to be harsh on you. Can you understand why the American people are so frustrated with this Administration? When you come in here and you say gang membership is a threat to national security, it is a threat to public safety, and you as the director don't even know on the interviews if you are asking the question if they were a member of the gang and you don't know whether or not they can just say, "Oh, yes. I was a member, but I am no longer a member." That is concerning.

I will finish with this, and then I will let you respond, when the border agents who are having to do this are telling us they are worried because we are letting gang members into the country, and then we find you don't even know if we are asking that question, that is a big concern to us.

And I will let you respond, because my time has expired.

Mr. RODRIGUEZ. Sure. What I do know is where we do have cause to believe that an individual has been——

Mr. FORBES. The question ought to be asked every single time in every interview, if you think it is a public threat and a national security issue, which you testified it was.

And to say if you have cause, if somebody shows up and they make the allegation, you ought to be at least asking that question, if the border agents are saying this is a big concern.

And with that, Mr. Chairman, I yield back with a great deal of frustration.

Mr. GOODLATTE. The Chair thanks the gentleman, and recognizes the gentleman from Illinois, Mr. Gutierrez, for 5 minutes.

Mr. GUTIERREZ. Thank you, Mr. Chairman. I am looking forward to writing my letter to Leader Pelosi. I want to come back to this Committee in the next Congress of the United States. Nothing is more interesting than coming to this Committee, each and every time.

Well, guess what, welcome, Mr. Rodriguez.

Mr. RODRIGUEZ. It is good to be here.

Mr. GUTIERREZ. You finally heard the Republicans say they love a union, one union, and one union only. Of course, it is the union that helps them promote the kind of xenophobic attitude toward immigrants that they like to promote in the Congress of the United States.

And that is unfortunate, but they do like a union. Finally, there is one. I don't know if they are members of the AFL-CIO or what they are. It is the Border Patrol.

But just so we get clear, he keeps talking about the testimony about the ICE union. Are there ICE members on the border stopping people from crossing the border?

Mr. RODRIGUEZ. My understanding is that is the responsibility of U.S. Customs and Border Patrol.

Mr. GUTIERREZ. There we go. So there is one union you should stop talking about at the border, since ICE agents aren't at the border of the United States. But why let the facts get in the way of a good story.

So here, once again, we talk about gang members. Do you ask 5 years olds whether they are gangs?

Mr. RODRIGUEZ. Again, I am looking into——

Mr. GUTIERREZ. Because you have to ask them all. You have to ask them all, 3, 4, 5, 6, 7 year olds.

Mr. RODRIGUEZ. It is my understanding that when we believe that somebody presents a national security or criminal justice threat, based on the biometric data that we collect, then we do follow up. I imagine we don't often do that with 5 year olds, are probably never do it with 5 year olds.

Mr. GUTIERREZ. That is what I thought. But they are probably going to want you to ask 5 year olds if they are gang members.

Do you check them for Ebola, for the Ebola virus?

Mr. RODRIGUEZ. Well, I do know that individuals——

Mr. GUTIERREZ. Because they are very concerned about that.

Mr. RODRIGUEZ. I do now that individuals do receive health screenings at the border, Congressman.

Mr. GUTIERREZ. They do receive health screenings. So maybe next time they are going to ask you. You should check them, see if they have that virus before they contaminate everybody in the United States when they come across.

So what we hear constantly is about, just so that we have it clear, I wish I had the article, but it appears the American public, 70 percent of the American public, looks at the children at the border as refugees. They don't look at them as people coming here to take away jobs from hardworking American citizens. They look at them as refugees.

They don't look at them as, what is it, gun-toting, tattoo-wearing, disease-ridden criminal elements who are coming to destroy America, but as refugees.

I would suggest that people go down to the border and visit. I think you will see that they are refugees, too.

There is going to be another trip, bipartisan trip, this coming Thursday. I look forward to participating in that.

And I am a member of the Permanent Select Committee on Intelligence, and we have absolutely no reports from our intelligence

services—and this isn't these guys. These are the guys who are there to protect us and everything. They are saying they have found no relationship between those people crossing the border and gangs. None. They haven't been able to find any. They are searching, because they want to find some for you, but they haven't found any yet, any connection yet.

I am not trying to say that there aren't any, but it is just not the prevalent case. What you have are children fleeing violence, fleeing poverty, and trying to reunite with their families. All of those things are true.

I want to ask you a question, because there was a time in California when they had good old Governor Pete Wilson decide he would propose Proposition 187. Using similar language that is being used today about disease-ridden, gang-banging, tattoo-wearing people taking away jobs and corrupting America, so he proposed Proposition 187, so they wouldn't be able to get educated.

Do you know how many people became citizens of the United States of America in 1994, 1995, 1996?

Mr. RODRIGUEZ. I confess that I don't actually know how many people became U.S. citizens in those years.

Mr. GUTIERREZ. Over 1 million. Over 1 million, promoted by none other than Pete Wilson. So Pete Wilson said, you know, I really don't like those immigrants. You know what immigrants did? They came.

But here is the issue, Mr. Rodriguez. It was 95 bucks back then. It is now how much?

Mr. RODRIGUEZ. It is my understanding that the naturalization fee now, I think, is about \$680.

Mr. GUTIERREZ. So it is a lot more than it was back then.

Are you doing anything in order to make citizenship—because it just seems to me that if somebody wants to become a permanent resident of the United States, they just want to renew their permanent residence, it is around the \$400 range. But it is over \$600 if you want to become a citizen. Why is it so much more expensive, if you want to be a citizen than if you just want to be a permanent resident?

Mr. RODRIGUEZ. The price of any particular benefit, the cost of any particular benefit, is determined by the time and effort involved in adjudicating that benefit. Naturalization, we are talking about a language interview. We are talking about a general interview. So there is a significant time and effort involved. We have to pay our own way.

Mr. GUTIERREZ. My time is up.

Mr. RODRIGUEZ. And we have fee waivers that are granted to about 20 percent of our applicants.

Mr. GUTIERREZ. Okay. You might want to decide, thank you for the indulgence of the Chair, you might want to decide to kind of switch.

That is to say, if I want to make a permanent relationship with the United States—i.e., be a citizen of the United States—you might want to have that cost less than I just want to maybe hang around for 10 more years and not make that permanent. Because the guy who does want to become a citizen, or the woman, he learns English and civics and takes a big chance because he might

fail the test, whereas the other person just pretty much automatically gets extended for 10 more years.

You might want to switch that around, since there are 8.8 million permanent residents who can become citizens today, 6 million of them Mexican nationals who could become citizens overnight. You might want to think about that, so they can defend themselves against those who would portray them as tattoo-wearing gang-bangers.

Mr. CHAFFETZ [presiding]. We thank the gentleman.

I now recognize the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

Director Rodriguez, I do appreciate your testimony. I would like to give you a little bit of a narrative on what is on the front of my mind listening to this. And that is that I took Mr. Gutierrez's advice last weekend and went down to the border, started at the mouth of the Rio Grande River, right there at the physical border. I planted a flag there, by the way. I worked my way upstream all the way to Laredo.

Stopped in at multiple places in Brownsville and McAllen and other places on up the river and received briefings at those ports of entry from Customs and Border Protection, from Border Patrol, from each law enforcement entity that is down there, including the Department of Public Safety of Texas and Texas Rangers, and talked to people on the street.

Here's what comes out of that for me, and that is they will all tell us that DACA is the magnet. And one of the excuses is the 2008 law for the other than Mexican unaccompanied alien children. That is developing into a broader policy because it is being exploited.

These children are being sent into the United States at the expense of the American taxpayer.

But when I met with them, I went also to an HHS not-for-profit subcontractor who is housing 188 of the unaccompanied alien children between the ages of 10 and 17. There were 144 males and 44 females. That is the 188.

And there, and many other places, we learned this. They said that in some cases 100 percent of the females who are being sent out of Central America are given birth control before they leave because it is anticipated that they will be raped along the way. I don't believe that number is 100 percent. I see other numbers that are less than that.

But those who are sexually abused, the reports that we got in asking this question nearly every stop ranged between one third of the females who are coming up—this is the children, the under 18 children, between one third of them raped and up to 70 percent of them raped.

That does comport with the expectation that handing them birth control pills—so apparently it is this. I expect that my daughter, my granddaughter, my niece, my neighbor, whoever it is that is in custody, when they send them is going to be raped, and I can deal with the sexually transmitted diseases and the mental trauma and the physical trauma, as long as she doesn't have a baby that comes along with that. That seems to be the psychology.

And we went into the detention centers in the Border Patrol and we saw unaccompanied alien children, males and females. We saw mothers with nursing babies. We saw women who were ready to have a baby. And we watched that process go all the way through. And we went to the bus station to see where they were being dispatched out across the country.

I did go and do these things. And asylum is a big piece.

Sunday night, we sat at a border crossing upstream from that crossing and downstream from Laredo. And I have in this phone here a video of a raft of two coyotes who loaded a pregnant female in it and brazenly took her across the river within plain sight of the Border Patrol and the local city police, deposited her on the shoreline. She gave herself up for asylum. And before she gets hearing, the baby is an anchor baby.

There is not a level of anxiety down there about this happening on an hourly basis in broad daylight in front of the Border Patrol and in front of the city police. There is anxiety on my part because I am watching the rule of law being deconstructed by this Administration.

I have in my hand here, this is a request for proposals from your operation, dated June 19, which I would ask unanimous consent to introduce it into the record.*

Mr. CHAFFETZ. Without objection, so ordered.

Mr. KING. Thank you, Mr. Chairman.

This RFP is 162 pages, titled "Solicitation Contract Order for Commercial Items." And one of the things it says in the RFP is this: Based on experience over the past few years, USCIS estimates that application petition receipt levels could increase or decrease from $\frac{2}{10}$ of 1 million on up to 2 million forms per year over the next 5 years.

For asylum applications up to 2 million? And the decision has not been made by this Administration to expand DACA, which is the foundation for this human tragedy of thousands of girls being raped on their way from Central America to the United States.

And apparently we don't have a conscious about what is happening to these girls—and boys, too, by the way, in significant numbers are being sexually abused, not to mention the murders and death that take place along the way.

This Administration has made the decision. This RFP put out by your Administration would not have been put out, if the decision were not at least on the cusp of imminent.

Can you tell me what might cause the Administration to retract from this, this decision, this RFP asking for the ability to process—by the way, USCIS, this is from the report, needs to acquire records management and support services for its service centers. The objective of the acquisition is to provide comprehensive records management services for four service centers in a manner that ensures efficient and effective adjudication, financial responsibility, and excellent customer service. I appreciate that part. And it anticipates implementation of new laws and policies as a cause for this.

*Because of its voluminous size, the information referred to is not reprinted in this hearing record but is on file with the Committee and can also be accessed at <http://docs.house.gov/meetings/JU/JU00/20140729/102548/HHRG-113-JU00-20140729-SD004.pdf>.

I think the Administration has made the decision to totally tear asunder the rule of law and grant administrative amnesty to 5 or more million people, and do so while this Congress is out of session.

How would you respond to that, Director Rodriguez?

Mr. RODRIGUEZ. First of all, let me start by saying, DACA offers no benefit to the individuals coming over the border. They are not eligible for DACA or any version of DACA.

Secondly, to the extent, and I am not familiar with the specific contract that you described, we prepare for surges in work that can come from all kinds of sources.

So I will, certainly, look into that particular contract when I return to my office this afternoon, but I would not necessarily attribute it to the situation at the border.

As far as adults, roughly 15 percent are asserting credible fear claims. As far as children, it is in the low single digits, the number of children who are actually making asylum claims at some point in the process. That is a different process than the credible fear process.

I just thought those facts would be potentially helpful.

Mr. KING. Do we have those who are lawfully present during DACA, and there is an anticipation that DACA will be expanded, they think that if they get into America, they get to stay in America. And we know that that number is well above 98 percent who get into America who get to stay in America.

And the asylum applications, this woman will apply for asylum. And before she is heard, the baby will be born, and there will be an anchor in this country. And that came right under my nose.

I yield back.

Mr. CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from Texas, Mr. Gohmert, for 5 minutes.

Mr. GOHMERT. Thank you, Mr. Chairman.

And thank you for being here, Director. I am looking at numbers from USCIS from March 2014, and it indicates that looks like through March 2014 that there has been a cumulative total since 2012 of 553,197 requests approved under DACA, the President's law that passed his lips, but not Congress.

Do you have any updated numbers since March? Where are we now? It is obviously more than 553,000.

Mr. RODRIGUEZ. We will make sure to get the Committee specific updated numbers. I believe, but please don't hold me to this, the number now is—

Mr. GOHMERT. Well, who do I hold—I want to get somebody I can hold to it.

Mr. RODRIGUEZ. I want to get you—I just don't have it at my fingertips right now. I will get you the exact information you need.

I believe the number is now at 714,000 individuals who have DACA receipts.

Mr. GOHMERT. I see. You said in answer to an earlier question that you have heard people say that there is a culture of getting to yes, but you also heard people say there is a culture of getting to no. And I would submit to you based on your own numbers that the figures bear out there is a culture of getting to yes.

You can't get to 700,000, and maybe have 20,000 noes, and not have a culture of yes. So I would encourage you to look more harshly at those who say there is a culture of no.

You said you observed a credible fear interview. Let me ask you, in your prosecutorial role, did you ever prosecute any drug crimes?

Mr. RODRIGUEZ. Yes, sir.

Mr. GOHMERT. Okay. So I am curious, during your prosecution of drug crimes, did you ever refer to someone who gave money to buy a big load of drugs as a drug trafficking victim? Someone who paid massive money to get a load of drugs, did you ever refer to them as a drug trafficking victim?

Mr. RODRIGUEZ. Let me suggest that perhaps we are talking about apples and oranges. But, no, I certainly did not refer to somebody giving—

Mr. GOHMERT. Well, let's talk about the apples and oranges, Director.

When someone pays a human trafficker to move them, then I would submit to you they are not a victim. They are a participant in the human trafficking business. They are keeping the human traffickers in business.

And when I was down there, the weekend before last, south of McAllen, right on the river, talking late at night to one of the border patrolman there who is Hispanic, he was telling me that 90 percent of the time when he asked them out there by the river, they say, "Oh, I was fleeing gangs and gang violence." And he said, "I get tough with them because I know where they are coming from and I speak the language well. I tell them you may tell that garbage to somebody else, but you and I both know that it was gangs that brought you up are."

That is who the drug cartels normally hire to bring people up here through Mexico. And he said 90 percent of the time or better, they will say, "Well, you are right, but we were told to say we are fleeing gang violence."

Are you aware, Director, of who it is the powerful drug cartels in Mexico hire to move people who have paid their thousands of dollars across Mexico to the U.S.? Do you who they hire?

Mr. RODRIGUEZ. No, not specifically. I mean, obviously, I know the human trafficking environment involves drug cartels, involves all kind of alien smugglers. It is not exactly our lane, so I am not fully familiar with that.

Mr. GOHMERT. Would you call them criminals?

Mr. RODRIGUEZ. Human traffickers and drug cartels?

Mr. GOHMERT. Yes.

Mr. RODRIGUEZ. Sure.

Mr. GOHMERT. That get paid to move people illegally into the United States.

Mr. RODRIGUEZ. Sure, I have prosecuted alien smuggling. Yes, of course; they are criminals.

Mr. GOHMERT. And so I would submit to you that is what we are talking about. We are talking about people who are paying criminals.

And I would submit to you that the evidence will get down and dirty and show that there are many gang members who are getting

paid to transport people to the U.S., only to have them get here and say, "I am fleeing gang violence."

So I would encourage you to be more skeptical in these interviews, without further evidence.

And, Mr. Chairman, I would ask that I be allowed to submit to the record the evidence from Honduran Security Minister Arturo Corrales that there has been a tremendous drop in homicides between 2012 and June 2014, from 3,245 to 2,634. So it doesn't appear the evidence is that things are deteriorating down south.

Thank you. I yield back.

Mr. CHAFFETZ. Without objection, so ordered. We will enter that into the record.

[The information referred to follows:]



What Is Behind Reported Homicide Drops in Honduras, Guatemala?

Written by Marguerite Cawley

Wednesday, 16 July 2014

Authorities in the Northern Triangle countries of Honduras and Guatemala have announced drops in their homicide rates of over 20 and 10 points, respectively. What has been responsible for these reported reductions in violence, and are they sustainable?

According to Honduran Security Minister Arturo Corrales, homicides dropped from 84 per 100,000 residents in 2012 — a rate the United Nations pegged at an even higher 90.4 per 100,000 — to 60 per 100,000 by June 2014, reported *La Tribuna*. Numbers from Honduran violence reduction force Fusina show 2,634 murders between January and mid-June this year, compared to 3,245 in the same period last year, reported *La Prensa*.

A geographical breakdown of homicides by the Security Ministry found 75 percent of murders were concentrated in just 30 Honduran municipalities (see InSight Crime map below), reported *El Heraldo*. Authorities plan to install Citizen Security Observatories to analyze homicide reduction strategies in these cities.

Meanwhile, the president of neighboring Guatemala, Otto Perez Molina, announced the country has seen an approximately 10 point reduction in its murder rate since he took office in 2012, when the murder rate was around 40 per 100,000,. According to EFE, 2,343 murders occurred between January and May this year, compared to 2,612 in the same period in 2013.



InSight Crime Analysis

Guatemala and Honduras, together with El Salvador, form Central America's so-called "Northern Triangle," a region plagued by drug and gang violence. Honduras has seen especially high rates of violence, with already rising homicides shooting up after a 2009 coup that plunged the country into political and social turmoil, making room for organized crime to flourish.

SEE ALSO: Honduras News and Profiles

While the apparent drops in homicides are promising signs, there are often discrepancies between official and independent murder counts. Murder reductions are good publicity, and the heads of state are thus likely to highlight the most favorable statistics available.

Regardless of the extent to which murders have actually dropped, questions remain as to whether or not the security policies of Honduran President Juan Orlando Hernandez and his Guatemalan counterpart have been responsible for the decreases. A February article from Plaza Publica noted that homicides began falling in Guatemala three years

before Perez Molina took office, and that subsequent drops could have as much to do with population growth as crime reduction strategies.

There is also the issue of sustainability. Since entering office in late January, Hernandez has undertaken a hard-line campaign to battle violent crime, placing members of the new military police (PMOP) on the streets of national capital Tegucigalpa and violence capital San Pedro Sula and cutting cell phone signals in prisons to target extortion. Nonetheless, his detractors have criticized his so-called "iron fist" policies as short-sighted – failing to address underlying institutional weakness and corruption – and potentially damaging in the long-run.

Mr. CHAFFETZ. We will now go ahead and recognize the gentleman from Texas, Mr. Poe, for 5 minutes.

Mr. POE. Thank you, Mr. Chairman.

Thank you once again for being here.

Of course, I am from Texas. I have been to the border a lot. I was there this weekend and saw Federal officials and State officials, both trying to secure the Texas-Mexico border.

Went down the Rio Grande River. They see us coming in a State boat. The folks that are in the water swim back. Coyotes in a raft moving folks. He bails and leaves the raft on its own. Rocks were thrown at us going down the river. It does not seem to be uncommon, based upon the law enforcement officers that I was with.

I just asked a lot of questions to the people who are on the front-line about the influx of people really from all over the world. Border Patrol sector chief, I asked him, who is coming? He said it is 144 countries that have come recently from all over the world, including Ukraine, coming into Texas from Mexico.

It shows the magnitude of the problem.

I was in Honduras and Guatemala earlier in the year. I saw the beginning of some of these folks who were making the trek.

And here's the message, whether it is a right message or not, that if you get to the United States, you can stay, especially if you are 17 or under. You are going to be able to stay. The United States will take care of you.

And so based on that, people move. The people motivating this are the drug cartels. And in this whole scheme of things, the winners, the people are making money, are the drug cartels and the coyotes. They are the ones who make the money off of smuggling people and trafficking people, which, as you know, as a lawyer, that is different. But they make the money.

Drug dealers for \$6,000 tell folks in Central America, give us \$6,000, that will get you three tries to get into the United States. Get the Texas-Mexico border, individuals are turned over to coyotes. Many of them, not all, but many of them, are criminal gangs, and MS-13 gang, juveniles under 17, criminals, to smuggle them into the United States.

Many of them are used as bait, in the sense that they start moving some people into United States. Drug cartels call Border Patrol and say here comes some more folks crossing the border. They use them as decoys to move their drugs further downriver across the river.

So the drug cartels are the criminals, and the MS-13 gang and the smugglers.

So the message is out there, right or wrong, that we will take care of folks. People hear that all the way down in Central America and all over the world, 144 countries coming in.

My question goes back to deferred action that has been talked about incessantly since you have been here all morning.

Do you think that expanding deferred action to include more people is legal? If the Administration does it, set Congress aside, if the Administration just defers action to another group of people—I am not talking about specific individuals, but to another group—do you think that would be legal or not?

Mr. RODRIGUEZ. It is my legal understanding, and this is something that has been acknowledged by scholars across the political spectrum, that, yes, there is prosecutorial discretion, which can be exercised in these sorts of situations.

Mr. POE. Is there a limit?

Mr. RODRIGUEZ. Of course, there is a limit. It is based on whatever the law actually allows.

Mr. POE. What does the law allow?

Mr. RODRIGUEZ. In most enforcement realms, generally, there is pretty broad discretion.

Mr. POE. So it could allow everybody?

Mr. RODRIGUEZ. I am sorry?

Mr. POE. Technically, if it is broad, that could be expanded to allow everybody, just everybody who wants to come. I mean, if it is discretionary.

Mr. RODRIGUEZ. I don't think that is what anybody is suggesting or saying.

Mr. POE. But you are not saying that it is unlawful to expand it.

Mr. RODRIGUEZ. Again, it is my understanding, based on my experience, based on my reading, that there is pretty broad prosecutorial discretion.

Mr. POE. Based on your position, where you are and in this long chain of immigrants and all the things we have been talking about, expanding that concept of deferred action, do you think more people will come or less?

Mr. RODRIGUEZ. I think the key thing when we talk about DACA, it—

Mr. POE. Excuse me. Do you think more people would be encouraged to come to the United States?

Mr. RODRIGUEZ. Not if they don't believe that there is a benefit. And I think it has been made very clear that there is no benefit for individuals who are currently trying to cross our border, unless they have a claim, such as an asylum claim.

Mr. POE. But they may perceive that DACA will apply to them, whether they realize the legal ramifications or not, once they are here. Don't you think that would encourage more to come?

Mr. RODRIGUEZ. I, certainly, think it is possible that there are unscrupulous individuals who are trying to deceive those people who are attempting to enter our country through the border.

The fact is, nothing like DACA offers those individuals any benefit.

Mr. POE. They are surprised when they get here, in many cases, that DACA does not apply to them. Is that a fair statement?

Mr. RODRIGUEZ. I have actually looked at Latin American media, where it is reported that DACA offers them no benefits.

Mr. POE. All right, thank you, Mr. Chairman. I yield back. I am over time.

Mr. CHAFFETZ. I thank the gentleman.

I will now recognize the gentleman from North Carolina, Mr. Holding, for 5 minutes.

Mr. HOLDING. Thank you, Mr. Chairman.

Mr. Rodriguez, thank you for being here. We will start with a little bit of housekeeping.

In reviewing your confirmation proceedings over in the Senate, I note that at the April 3 executive meeting, Senator Grassley pointed out that you had admitted to the Judiciary Committee that you were personally aware of emails between political employees and career prosecutors discussing the decision to decline to prosecute the new Black Panther Party voter intimidation case, and that had contradicted the testimony of your boss, Mr. Perez.

So I thought I would take the opportunity to ask you if you were aware of any emails between Lois Lerner, or a different member of the Internal Revenue Service, and career prosecutors in the Department of Justice regarding the prosecution or investigation of conservative groups seeking tax-exempt status?

Mr. RODRIGUEZ. You are asking me if I know anything about Lois Lerner, Congressman?

Mr. HOLDING. If you are aware of any emails.

Mr. RODRIGUEZ. I only know what I have read in the paper about that situation.

Mr. HOLDING. So while you were in the Department of Justice as Chief of Staff for the civil division.

Mr. RODRIGUEZ. Civil Rights Division.

Mr. HOLDING. Civil Rights Division. You are not aware of any emails?

Mr. RODRIGUEZ. I have no involvement or any awareness other than what you and I both read in the papers, Congressman.

Mr. HOLDING. Are you aware of when the Civil Rights Division was tasked with beginning the investigation of the IRS?

Mr. RODRIGUEZ. I left the Civil Rights Division to go to the Department of Health and Human Services in September 2011. I think you are asking about a specific individual who was designated to conduct some review. I am not fully familiar—that happened, I am pretty sure, long after I left the Civil Rights Division.

Mr. HOLDING. Okay. Also during your confirmation hearing, it was determined or discovered that you served on the board of directors of Casa de Maryland, which is an organization that was known for finding employment for individuals without proper documentation.

So I assume you supported this objective of the organization while you were on the board of directors.

Mr. RODRIGUEZ. In the context of the community in which I live, yes, I did support that mission.

Mr. HOLDING. Okay. Do you believe that prosecutorial discretion could be used to allow for finding employment or allowing employment for individuals without proper documentation?

Mr. RODRIGUEZ. If the individual has a right, for example, through some sort of deferred action or parole, or some other mechanism, to be in the United States, then yes, then those individuals can then be given employment authorization.

In fact, it is often a good idea, so that they are not in the shadow economy.

Mr. HOLDING. So, in your opinion as an attorney, an experienced attorney at that, as the President looks at his options to continue to act as administratively to change U.S. immigration policy—the Chairman asked you at the beginning of the hearing as to what you had reviewed, what were the President's next plans.

I would like to change the question a little bit and ask, in your learned opinion, what you know of the law, what you think the President's options are to act administratively to change U.S. immigration policy?

Mr. RODRIGUEZ. So, of course, no decisions have been made. I think it is important to underscore that at the beginning.

I think the options are many that are permissible under the law. I think that is a deliberation that is ongoing as we speak.

Mr. HOLDING. Give me two examples.

Mr. RODRIGUEZ. I am not really in a position to be able to give specific examples other than to make the general observation that the options are many.

Mr. HOLDING. You can give examples, just based on your understanding of the law. You don't have to relate them to what the President is actively considering.

Mr. RODRIGUEZ. Certainly, DACA, as we have done it already, is one, obviously, very concrete example of how that discretion might be exercised.

Mr. HOLDING. All right.

I was looking at a USCIS chart regarding the number of DACA requests by requester country of birth. And it lists the top 25 countries of the requester's birth. But there are 19,200 requests on this chart from other and unknown countries.

How many of those DACA requests have you received from applications whose home countries are listed as state sponsors of terrorism?

Mr. RODRIGUEZ. I could probably tell you the top five. Beyond that, I am not specifically aware of numbers.

Mr. HOLDING. Could you get back to the Committee and give us specific numbers on that?

Mr. RODRIGUEZ. Absolutely, Congressman. Yes, we can.

Mr. HOLDING. Think very much.

Mr. Chairman, I yield.

Mr. CHAFFETZ. I am going to go and yield myself now 5 minutes.

Director, again, we thank you for being here. I want to walk through the process and understand some of the metrics.

So if you came to this country illegally, you can apply for DACA, correct?

Mr. RODRIGUEZ. If you qualify under the various criteria.

Mr. CHAFFETZ. How old can you be before you file for DACA? How old can you be?

Mr. RODRIGUEZ. It is my understanding you can be no older than 31.

Mr. CHAFFETZ. So you can be a 30 year old and apply for Deferred Action for Childhood Arrivals.

Mr. RODRIGUEZ. That is correct.

Mr. CHAFFETZ. At that time, the guidance says, that you can apply for employment, a work permit.

Mr. RODRIGUEZ. That is correct. In order that you not be in the shadow economy, that you pay taxes, that you not be in a dependent status in any way.

Mr. CHAFFETZ. So you come here illegally, and then you apply for DACA and you get a work permit.

Now you said that there are more 700,000 people that have been put into this process, correct?

Mr. RODRIGUEZ. I want to confirm those numbers with the Committee.

Mr. CHAFFETZ. Your written testimony says over 580,000, but you are now saying something like 700,000. It is hundreds of thousands of people.

Mr. RODRIGUEZ. It is hundreds of thousands, yes.

Mr. CHAFFETZ. So you are here illegally. You haven't gone through the proper channels. Now you are going to apply for DACA. You can be 30 years old. You get a work permit.

How many of those work permits have been terminated or revoked?

Mr. RODRIGUEZ. So, first of all, the key thing about these DACA individuals is that they were brought here. They did not come here. They were individuals who were brought here as children.

Mr. CHAFFETZ. How do you verify that?

Mr. RODRIGUEZ. Based on their ages and what we know about their—

Mr. CHAFFETZ. They could be 30 years old, so—

Mr. RODRIGUEZ. They would have been brought here as children. I mean, that is one of the criteria to establish.

Mr. CHAFFETZ. How long are these interviews?

Mr. RODRIGUEZ. I am not specifically—

Mr. CHAFFETZ. How long was the interview you sat in?

Mr. RODRIGUEZ. I am sorry?

Mr. CHAFFETZ. You sat in on one of these interviews.

Mr. RODRIGUEZ. That was in an asylum interview that I sat in on.

Mr. CHAFFETZ. How long was that interview?

Mr. RODRIGUEZ. That was a full hour, that interview.

Mr. CHAFFETZ. And we heard previous testimony from I believe the last hearing we had that normally these interviews are 15 to 20 minutes.

Mr. RODRIGUEZ. If we are talking about asylum interviews, my understanding is in fact that they are generally far longer than that, that they are closer to about an hour.

Mr. CHAFFETZ. So a credible fear hearing you think is how long?

Mr. RODRIGUEZ. It was an hour. The one I observed was an hour, and it is my understanding that that is the norm.

Mr. CHAFFETZ. I think the record will correct you on that one.

Of the people who apply or get DACA, they now have a work permit, so they can compete for a job against a United States citizen. How many of those get terminated?

If you are, for instance, convicted of a felony, how many of those have been terminated?

Mr. RODRIGUEZ. As of June 31, I don't know the specific reasons for termination, 147 people have been terminated.

Mr. CHAFFETZ. So wait, there are over 700,000 and there have been how many who have been terminated? 100?

Mr. RODRIGUEZ. I would rely, actually, on the number that is in my testimony.

Mr. CHAFFETZ. It is not specific. There is no number.

Mr. RODRIGUEZ. Oh, I thought you had a specific number.

Mr. CHAFFETZ. No, that is the problem.

We have been asking——

Mr. RODRIGUEZ. In any event, you and I agree. We are talking about hundreds of thousands of people. There is no dispute about that. And 147 individuals have been terminated as of the end of June.

Mr. CHAFFETZ. How do you get this information? If somebody is convicted of a felony in Utah or North Carolina, how do you get that information? Whose responsibility is that?

Mr. RODRIGUEZ. It comes to us through various mechanisms. It could be reported to us by the individual as part of the renewal process.

Mr. CHAFFETZ. Really? You think that is going to happen?

Mr. RODRIGUEZ. Or it comes to us by other processes.

Mr. CHAFFETZ. So you just wait for it?

Mr. RODRIGUEZ. From law enforcement agencies, we find the information——

Mr. CHAFFETZ. Do you get reports of this? Do you have a list of this information? Do you surf the databases? Is there anything proactive that you do to get this information?

Mr. RODRIGUEZ. My understanding, at this point in my tenure, is that we get the information from a variety of different sources.

Mr. CHAFFETZ. When you get this work permit, are there any limits to the type of work you can do? Can you get a job in law enforcement?

Mr. RODRIGUEZ. If you are otherwise qualified for that job. Now, I know very often law enforcement agencies have various sorts of——

Mr. CHAFFETZ. But there are no limits on the type of job you can get.

Mr. RODRIGUEZ. In and of itself, there is no limit unless that job itself has some limits associated with it.

Mr. CHAFFETZ. What do you say to the United States citizen who is doing everything legally and lawfully, that they are now competing for a job with somebody who came here illegally and applied, and the Obama administration said, well, we are going to defer that. You can go ahead and compete for that.

What do you say to that person?

Mr. RODRIGUEZ. I have had the opportunity during the course of this brief time of my tenure to meet some of DACA recipients. These are individuals who are going to school.

In one case, somebody who is about to graduate from——

Mr. CHAFFETZ. What do you say to the citizen who now has to compete with 700,000 people in the workforce that wouldn't be there otherwise?

Mr. RODRIGUEZ. We have explained about the exercise of prosecutorial discretion. We don't have the resources to remove 10 million, 11 million individuals. And so the question is, are we going to let them persist in the shadow economy or are we going to have them work and pay taxes.

So the choice that has been made is to enable them to work and pay taxes and go to school and become upstanding citizens.

Mr. CHAFFETZ. That is not what the law is, and that is what is sickening about this.

I yield back.

I now recognize the gentleman from Arizona, Mr. Franks.

Mr. FRANKS. Thank you, Mr. Chairman. I appreciate it.

Sir, I guess the first thing to deal with any problem is to try to dissect it and to analyze what it is.

From my perspective, there are two main concerns that I have: number one, that the rule of law and the Constitution of the United States has been undermined here and continues to be undermined; and number two, that there are tens of thousands of children who have been put at terrible risk and who continue to be put at risk.

Now I am convinced—I am just going to tell you up front where I am coming from—the EPIC intelligence report from July 7, 2014, interviewed a significant number of these unlawful immigrants who were coming over. And 95 percent of them, 95 percent of them, cited that the primary reason for migrating to the United States was the perception of United States immigration law granting free passes, or permisos, allowing them to stay.

So there is no question in my mind, you have projected from 2011 through 2015 now a 2,230 percent increase in these unlawful immigrants coming over the United States border.

Now that a systemic issue there. And I am absolutely convinced that the President's telegraphing of a message to Central America and Mexico and other places is the fundamental reason that has occurred.

So I lay the suffering and some of the things that happened to these children at the feet of the President of the United States. I have no doubt about that. Certainly, that is an opinion, but it is a strong conviction, and I think one upheld by the evidence.

So my question is really to try to deal with those two things.

First of all, I know your oath of office included swearing to uphold the Constitution. I am not trying to be tough on you or arrogant here, but I am just trying to make a very important point.

How will you be able to defend the President's end run around Article 1, Section 8, Clause 4, which specifically bestows on Congress the duty to create immigration law, given his rewriting the law at his executive whim?

How do you deal with your oath of office in following some of those perspectives?

Mr. RODRIGUEZ. Well, among other things, I don't accept the characterization that we are simply ceasing in any way to enforce immigration law. We are exercising our discretion to prioritize the most important cases, the most serious cases, for enforcement and removal and investigation, and focusing on those and dealing with individuals who are not in those categories.

Mr. FRANKS. All right, let me try to accept that then.

So then, would you agree that the President—I will ask you an open question. Does the President now have the ability with existing funding to help begin to stem the flow of unlawful immigrants into the United States? Does he have that capability now?

Mr. RODRIGUEZ. There is, certainly, some capabilities. Certainly, the Administration has made clear that it needs additional funding in order to deal with what has been a significant surge, one that

we all agree is a significant issue, a significant surge across the border.

Mr. FRANKS. But he cannot do that now, correct?

Mr. RODRIGUEZ. More resources are needed to deal with that.

Mr. FRANKS. So are you saying that without additional funding, that the President cannot cease to use his prosecutorial discretion authority to shield whole categories of unlawful immigrants from prosecution, or he cannot implement tougher standards for credible fear claims? He cannot do that without additional funding, correct?

Mr. RODRIGUEZ. Well, the credible fear standard is a standard that is in law and that is—

Mr. FRANKS. And it is also a standard that, as you know, has been accepted almost 600 percent greater incidence than it was before under this Administration—almost 600 percent. And I am just wondering, how do we close our eyes to the fact that this President's message to Central America and other places was that we won't do anything. And if somebody comes over, that is their perception.

And it occurs to me that if the President is the cause of this, and I absolutely believe that the American people understand that he is, that he also then has the ability to send a different message, and to end both the suffering of these children, and I believe that is real.

You know, sometimes they try to make it that people who want to secure the border, like I do, that somehow we don't care about the children. And we do. And I am convinced that the children that we might give a better living standard here, we are going to hurt four or five more by incenting them to make that treacherous, dangerous trip, wherein they run into all these kinds of problems.

So if we are going to stem that issue, can't we call upon the President to send a message back that, no, there is a false thought that they will just be welcomed here and they won't be sent back? Because right now, they don't think so.

And he is getting ready to do some other executive order that, certainly, underscores that concern.

Mr. RODRIGUEZ. The message that these individuals, for the most part, will ultimately not qualify to stay in the United States, that message has been delivered.

Mr. FRANKS. Well, they are not hearing it, my friend. Because 95 percent of them say that this is what they are coming. And that is this President's fault.

I wish I didn't have to yield back, but I yield back.

You can go ahead and answer the question.

Mr. RODRIGUEZ. The flights have started going back, and the message has been delivered that in fact, in most cases, these individuals will not be able to stay in the United States. That message has been delivered by the President, by the Secretary. It has been delivered in many different ways, including by leadership in those countries.

Mr. FRANKS. Thank you, Mr. Chairman.

Mr. CHAFFETZ. Thank you.

Director, can you clarify, when you say in most cases they are going to be sent back, there is no metric that I see that says that.

Mr. RODRIGUEZ. Well, in other words, recognizing that some individuals may be able to claim a status that enables them to stay in the United States, either qualify for asylum or be able to establish some other status that enables them to stay in the United States. In the majority of cases, these individuals will need to be returned to their countries.

Mr. CHAFFETZ. I now recognize the gentleman from Georgia, Mr. Collins, for 5 minutes.

Mr. COLLINS. Thank you, Mr. Chairman. I appreciate the time, and let's get right to it.

Just a little bit ago, DHS Secretary Johnson testified before this Committee, on May 29. He claimed that the Administration's unilateral amnesty policies have created legal ambiguity for the status of illegal aliens.

I objected to that point at the time. On page 6 of your testimony, you write that DACA does not confer legal status on the recipient.

So you agree with me that Secretary Johnson is wrong that any deferred action or prosecutorial discretion creates a legal ambiguity.

Mr. RODRIGUEZ. Well, it, certainly, doesn't create a permanent status. I think that is the thrust of your question.

Mr. COLLINS. No, the thrust of my question is are they here legal or not. What Secretary Johnson basically said was, because of this mismatch of policies, we have created legal ambiguity for people who walk across our borders illegally. And according to your testimony, you say DACA was part of that mismatch of priorities and programs.

Would you agree with Secretary Johnson? Do you agree that there is a legal ambiguity, or do you agree that they are coming in illegally to the United States, coming in illegally, that there is an ambiguity to that situation?

Mr. RODRIGUEZ. I don't know the specific context in which Secretary Johnson might have been speaking. People who are benefiting from DACA, do they otherwise have a legal right to be in the United States, and it is a requirement in order to qualify for DACA that you not have another legal basis to be in the United States.

Those are individuals who in fact are not gaining any sort of permanent status through being able to be in the DACA program.

But I don't know the context in which Secretary Johnson's comments about legal ambiguity were made, so I am not really able to speak to that.

Mr. COLLINS. Okay, then I will just ask you directly. Do you believe there is a legal ambiguity that is caused by the differences—and he actually included States and other things.

It goes back down to the bottom line. If you cross over our border illegally, that doesn't automatically, by the basis of fact or changing or diversion or discretion, change the legal fact that you walked across our border illegally, correct or not?

Mr. RODRIGUEZ. I suppose that is true by definition, Congressman. In order to qualify for the DACA status, again, you have no other legal basis. It means you have no other legal basis to be in the United States.

Mr. COLLINS. Let me just follow up on that. I apologize. I have had to go out. I have had several other meetings going on.

But I think earlier when Mr. Chaffetz was asking you, you had said that a requirement of DACA is that they were brought here by someone else. That is just not true.

DACA only requires claiming to have entered before age 16, even if lawfully on a visa, and be under 31 when applying.

I think sometimes there needs to be—I think there is some misunderstanding here on DACA and some of the things that many of us don't like because of the way it basically has subverted the regular process.

Let's just move on to something else at this point.

What steps have been taken as part of the advance team planning effort Secretary Johnson mentioned on February 7, in anticipation that there will be some sort of path to legalization? How much has been spent on that?

Mr. RODRIGUEZ. I don't specifically know. I do know that there were efforts to prepare for the possibility of comprehensive immigration reform, specifically as contemplated in S. 744. I can, certainly, get back to you with that information.

Mr. COLLINS. Okay, can we have time and money on the written answer that you will provide back?

Mr. RODRIGUEZ. Yes.

Mr. COLLINS. Thank you.

The New York Times reported that the Obama administration is prioritizing the processing of DACA applications over those trying to enter the country lawfully. In fact, until recently, a U.S. citizen could obtain a green card for an immediate relative in 5 months or less. But after the Administration instituted DACA, the service diverted its attention to DACA recipients, and the typical wait lengthened to 15 months.

Why are you prioritizing illegal aliens over the immediate relatives of U.S. citizens?

Mr. RODRIGUEZ. First of all, I am pleased to report that the I-130 petitions have now returned within normal processing times. We have surges of work that come from all kinds—

Mr. COLLINS. So you are saying they are within 5 months now?

Mr. RODRIGUEZ. Now it is within 5 months or around 5 months.

Mr. COLLINS. Okay, I apologize. Around 5 months or 5 months? Because around 5 months could be 8. It could be 10. It could be 2. I mean, I am just trying to get clarification here.

Mr. RODRIGUEZ. It is at 5 months, Congressman.

Mr. COLLINS. At 5 months, okay. Thank you.

Let's go back then. I am glad it is back to where it should be, but why was there ever be a process in which you are prioritizing these applications over those who were immediate relatives of U.S. citizens?

Mr. RODRIGUEZ. Congressman, we have surges of work that come from all different sources. Our job is to implement the entirety of our mission to balance among different lines of business.

One of the things from DACA experience is we actually learned some important lessons on how we absorb surges in work, which is why we were able over time to return to a normal processing time for these I-130's.

Mr. COLLINS. Okay. Again, it is just frustrating. I know for those who are here legally, who are doing it the right way, to have been

put off for any length of time over a program that has put them behind the priorities. That is just something that is very frustrating as you look at it.

How much does the service spend on DACA applications? Again, spent moneywise, timewise, again, on these applications. You talk about the surge, how have you adapted? How much have you had to divert? What does it cost you in that realm?

Mr. RODRIGUEZ. My understanding, and I don't know the specifics, but what I do know is that the fee collected for employment authorization and for biometrics has enabled us to pay for the cost of processing DACA applicants.

Mr. COLLINS. Can you get—

Mr. RODRIGUEZ. We can get back to with specific information.

Ms. LOFGREN. Would the gentleman yield?

Mr. COLLINS. My time has expired, at this point.

Ms. LOFGREN. I just wanted to, as you proceed, it is my understanding, but please confirm this, that all of these applications were paid for by the applicants through their fees, and there were no taxpayer funds involved in these application processes.

Mr. RODRIGUEZ. Congresswoman, that is my understanding as well.

Mr. CHAFFETZ. If the gentleman from Georgia will yield back?

Mr. COLLINS. I yield back.

Mr. CHAFFETZ. As we wrap up, Director, we have just a few items that we would appreciate if you would provide for the Committee.

First, regarding DACA applications, could you provide the metrics by which you can sustain this claim that there is net expense to this? My understanding is that there is no DACA fee. There is for biometrics. There is for the worker application. But if you have 700,000-plus people getting DACA applications, and there is not DACA application fee, I would be curious to figure out where you get those funds.

Mr. RODRIGUEZ. We will provide you information on the cost of DACA.

Mr. CHAFFETZ. When do you anticipate that we are going to get this? What is reasonable for us to get these documents?

Mr. RODRIGUEZ. Would 30 days be appropriate? I am not sure if information is immediately available, or whether it is going to take us some time to assemble it.

Mr. CHAFFETZ. Okay, 30 days. That would be fine.

The next one is, of the 147 felony convictions, DACA recipients, the 147 who have been referred to ICE for removal, we would love to know how many of those have actually been removed from the United States. And have they been referred to ICE for removal?

I probably should have asked that in reverse order. How many of those 147 have been referred to ICE for removal? And how many of them have actually been removed from the United States?

We also need updated credible fear numbers, and we would also like to know how many work authorizations have been granted. This would be comprehensive over everything that you do. You can break it out in categories, but, certainly, how many work authorizations have been approved.

Mr. RODRIGUEZ. Thank you, Congressman. We will work to get you that information as soon as possible.

Mr. CHAFFETZ. If you can break that number out for the work authorizations for DACA, we would also appreciate it.

Again, is it reasonable to think that we could have these questions within the 30-day window?

Mr. RODRIGUEZ. I believe so. If I am mistaken about that, I will, certainly, let the Committee know.

Mr. CHAFFETZ. We hope that you can prioritize that.

We appreciate your participation here. Welcome.

This concludes today's hearing. I want to thank the witness for attending.

Without objection, all Members will have 5 legislative days to submit additional written questions for the witness or additional materials for the record.

The hearing is now adjourned.

[Whereupon, at 1:06 p.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Member, Committee on the Judiciary

Misleading Data regarding Unaccompanied Children and Asylum Applications

U.S. Citizenship and Immigration Services recently released data purporting to show that “a very small percentage of UACs apprehended by CBP have applied for asylum.”

Year	UAC Apprehensions by CBP	New Asylum Cases Filed by UACs in Removal Proceedings	Percentage
FY 2009 ²	19,819	206	1%
FY 2010	19,173	778	4%
FY 2011	17,786	577	3%
FY 2012	27,053	410	2%
FY 2013	41,908	718	2%
FY 2014 Q3	61,375	1,532	2%

Source: CBP (Column 2 – UAC Apprehensions by CBP)

This data is highly misleading for several reasons.

- 1) **The percentage of unaccompanied children who apply for asylum in removal proceedings factors in tens of thousands of Mexican children who are returned without removal proceedings.**

Until FY2013, the majority of all unaccompanied children apprehended by CBP were from Mexico (see chart below). Virtually all of these children are returned to Mexico within 48 hours of apprehension without being placed in removal proceedings and with no meaningful opportunity to apply for asylum. Including these children in the calculation to determine the percentage of unaccompanied children who apply for asylum each year grossly skews the data.

Unaccompanied Alien Children Encountered by Border Patrol

Country of Citizenship	FY2009	FY2010	FY2011	FY2012	FY2013	FY2014 YTD
Honduras	968	1,017	974	2,997	6,747	15,027
Guatemala	1,115	1,517	1,565	3,835	8,068	12,670
El Salvador	1,221	1,910	1,394	3,314	5,990	11,436
Mexico	16,114	13,724	11,768	13,974	17,240	12,146

Belize	2	1	3	4	3	12
Costa Rica	2	2	1	5	1	3
Nicaragua	18	35	14	43	97	164
Panama	0	0	1	5	0	0

Source: Department of Homeland Security, current as of June 15, 2014.

2) Because most unaccompanied children apply for asylum more than 300 days after apprehension, the percentage who apply for asylum each year is inaccurately suppressed.

Because apprehensions of unaccompanied children are on the rise and most children only apply for asylum 300 or more days after apprehension, USCIS's methodology for calculating the percentage who apply for asylum each year makes no sense. The numerator for the calculation (i.e., the number of new asylum cases filed by unaccompanied children in removal proceedings) and the denominator (i.e., the number of unaccompanied children apprehended) each reflect what happened in the fiscal year. They do not reflect the number of unaccompanied children apprehended in one fiscal year who, at some point, apply for asylum in removal proceedings. In fact, because more children only apply for asylum 300 or more days after apprehension the numerator almost certainly reflects asylum applications by children apprehended one or two fiscal years prior to the number reflected in the denominator. Since the number of apprehensions has been climbing dramatically, this provides one explanation for why the percentage seeking asylum in the USCIS chart appears to be so low and getting lower.

The combination of this error and the improper inclusion of Mexican children returned by CBP compounds the problem, because not only does the numerator include children apprehended in previous years with lower overall volume but it also includes previous years when Mexican children who were returned without removal proceedings made up a much larger percentage of all children apprehended.

3) By focusing only on asylum and not on other forms of relief sought or approved, the data creates the false impression that children do not pursue immigration relief.

If, in fact, a fairly small percentage of children who are placed in removal proceedings apply for asylum there are many possible explanations. The majority of children never

obtain counsel and some children and the family members to whom they are released may not understand that relief may be available for the child. But another reason some children may never apply for asylum is that they may, in fact, apply for other forms of relief for which they are eligible. Some children may apply for U visas or T visas. Others apply for, and receive, Special Immigrant Juvenile status. Below is data provided by USCIS regarding SIJS applications:

U.S. Citizenship and Immigration Services

Petition for Amerasian, Widow(er), or Special Immigrant (I-360) Receipts with a Classification of Special Immigrant Juvenile (C) for Approvals and Receipt for Fiscal Years 2005 to 2014 (May)

<u>FY</u>	<u>Approvals</u>	<u>Receipts</u>
2005	73	311
2006	398	478
2007	466	651
2008	806	1,134
2009	1,216	1,368
2010	1,590	1,646
2011	1,869	2,226
2012	2,726	2,968
2013	3,432	3,994
<u>2014</u>	<u>2,909</u>	<u>3,439</u>
Grand Total:	15,485	18,215

Material submitted by the Honorable Spencer Bachus, a Representative in Congress from the State of Alabama, and Member, Committee on the Judiciary

Congress of the United States
Washington, DC 20510

July 16, 2014

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Obama,

We write to ask for your personal engagement to resolve over 900 international adoption cases of Congolese children who either have been or are in the process of being adopted by American families, yet who are unable to obtain Congolese exit permits due to a suspension in the Democratic Republic of the Congo (DRC). We understand that you have invited President Joseph Kabila to Washington in August for the first ever U.S.-Africa Leaders Summit, and we urge you to use this event and the time leading up to it as an opportunity to press for an expeditious resolution that is in the best interest of these children.

In September 2013, the DRC suspended the issuance of exit permits for children adopted by foreign parents, reportedly due to concerns about suspected malfeasance in the local DRC adoption process and lack of information about the well-being of adopted children after they arrived in their new homes. This suspension is having tragic consequences for these children as they wait to be united with their American families. Already, 10 children who were matched with American families have died since the suspension went into place and many more have urgent, life-threatening medical problems. There are over 350 children who have been legally adopted by US families and have been given Congolese passports and U.S. visas, but are still waiting for exit letters to be able to leave the DRC.

Overcoming this impasse is a priority for many in Congress and we appreciate the State Department's efforts to raise this issue with its Congolese counterparts. In April of this year, a bipartisan and bicameral group of 170 Members of Congress wrote to President Kabila and Prime Minister Matata Ponyo, urging the DRC government to resume processing exit permits for adopted children. To date, there has been no official response to this letter. Secretary Kerry raised this issue directly with President Kabila during his visit to Kinshasa in May and later that month the DRC government did release exit letters for 19 children adopted by American families, 4 of whom were medically fragile. Unfortunately, this represented only a small percentage of the completed cases and leaves dozens of critically ill children without the medical care they need to survive. The U.S. Department of State has continuously engaged the Congolese government to resolve the remaining completed cases, but to date all overtures have been unsuccessful. For example, when the DRC Director of General Migration (DGM) Francois Beya visited the United States in June, he received multiple requests for meetings ranging from State Department officials to Members of Congress. Mr. Beya declined to schedule any meetings on

the suspended exit permit issue. That is why we are requesting your direct engagement with President Kabila.

We respectfully request that you raise this human rights crisis with President Kabila prior to his attendance at the U.S.-African Leaders Summit next month, and then use the opportunity of the summit to press for a firm resolution. We would appreciate your leadership on this issue to help unite these children and their families.

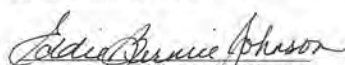
Thank you for your attention to this important request.

Sincerely,

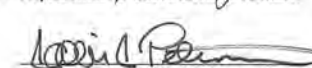

Senator Mary Landrieu

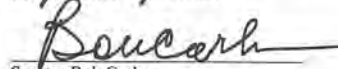

Senator James M. Inhofe


Representative Michele Bachmann


Representative Eddie Bernice Johnson


Representative Trent Franks


Representative Collin C. Peterson


Senator Bob Corker

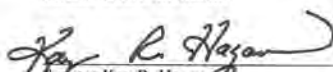

Senator Mitch McConnell


Senator Barbara Mikulski


Senator Tom Harkin

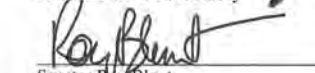

Senator Claire McCaskill

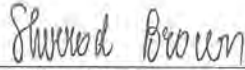

Senator Elizabeth Warren


Senator Kay R. Hagan


Senator Charles E. Grassley


Senator Richard Burr


Senator Roy Blunt



Senator Sherrod Brown



Senator Ted Cruz



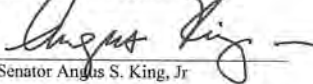
Senator Debbie Stabenow



Senator Michael B. Enzi



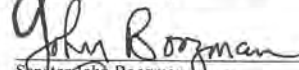
Senator Barbara Boxer



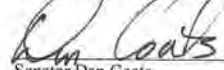
Senator Angus S. King, Jr.



Senator John Barrasso



Senator John Boozman



Senator Dan Coats



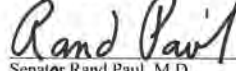
Senator Maria Cantwell



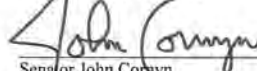
Senator Kirsten Gillibrand



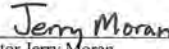
Senator Pat Roberts



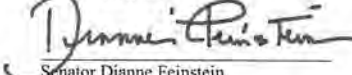
Senator Rand Paul, M.D.



Senator John Cornyn



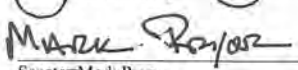
Senator Jerry Moran



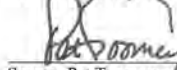
Senator Dianne Feinstein



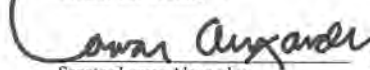
Senator Joe Donnelly



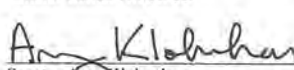
Senator Mark Pryor



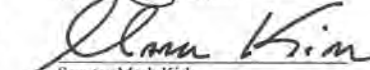
Senator Pat Toomey




Senator Lamar Alexander



Senator Amy Klobuchar

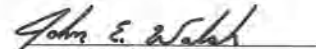


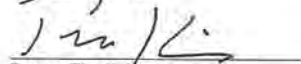
Senator Mark Kirk



 Senator David Vitter

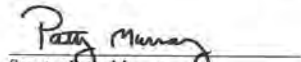

 Senator Heidi Heitkamp

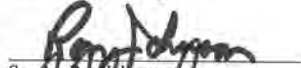

 Senator Edward J. Markey

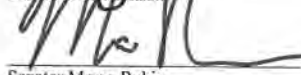

 Senator John Walsh


 Senator Tim Kaine


 Senator Mark Udall


 Senator Patty Murray


 Senator Ron Johnson

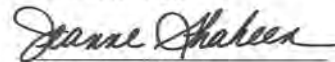

 Senator Marco Rubio


 Senator Robert P. Casey, Jr.


 Senator Joe Manchin


 Senator Al Franken


 Senator Deb Fischer

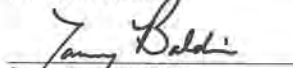

 Senator Jeanne Shaheen

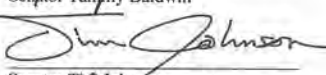

 Senator Lisa Murkowski


 Senator Mark R. Warner

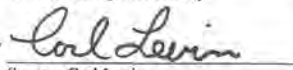

 Senator Mike Johanns


 Senator Rob Portman


 Senator Tammy Baldwin


 Senator Tim Johnson


 Senator Jeffrey A. Merkley

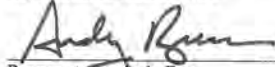

 Senator Carl Levin

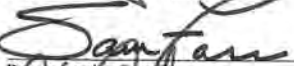

Representative Karen Bass

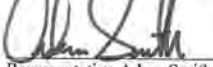

Representative Ed Royce

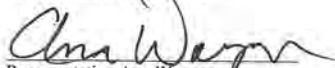

Representative Roger Williams

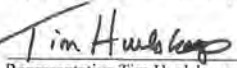

Representative André Carson

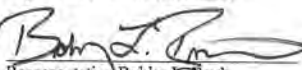

Representative Andy Barr

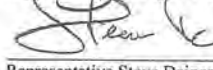

Representative Sam Varr



Representative Adam Smith


Representative Ann Wagner



Representative Tim Huelskamp


Representative Bobby L. Rush

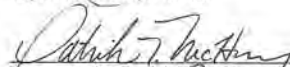

Representative Steve Daines


Representative Tom Latham


Representative Chris Smith

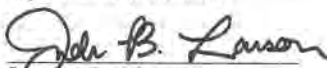

Representative Jim Renacci


Representative Reid Ribble

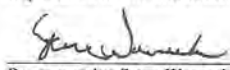

Representative Patrick T. McHenry


Representative Mike Pompeo


Representative Aaron Schock

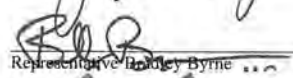

Representative John Larson


Representative Jim McDermott

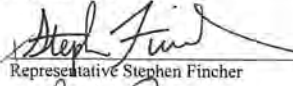

Representative Steve Womack


Representative Michael McCaul


Representative Joyce Beatty


Representative Rodley Byrne


Representative Don Young

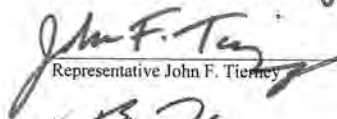

Representative Stephen Fincher


Representative Mike Simpson


Representative Cynthia M. Lummis


Representative Filemon Vela


Representative Frank R. Wolf

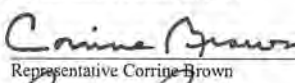

Representative John F. Tierney

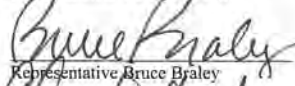

Representative Bill Flores

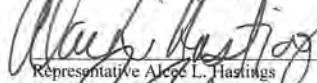

Representative Charles Rangel


Representative John Kline


Representative Chellie Pingree

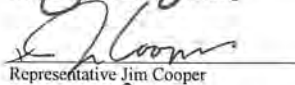

Representative Corrine Brown


Representative Bruce Braley


Representative Alcee L. Hastings


Representative Spencer Bachus


Representative George Holding

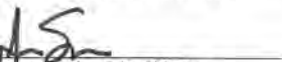

Representative Jim Cooper


Representative Blaine Luetkemeyer


Representative Bill Huizenga


Representative Dave Camp

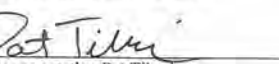

Representative Earl Blumenauer



Representative John Shimkus

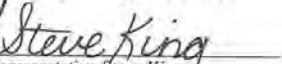

Representative Lloyd Doggett



Representative Marc Veasey


Representative Mike Honda


Representative Pat Tiberi


Representative Stephen F. Lynch


Representative Steve King


Representative Suzan DelBene

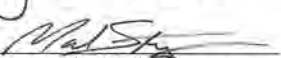

Representative Blake Farenthold

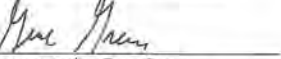

Representative Chuck Fleischmann


Representative John C. Fleming M.D.


Representative Kenny Marchant


Representative G. K. Butterfield


Representative Marlin Stutzman


Representative Gene Green


Representative Pete Sessions

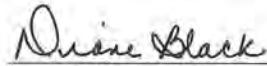

Representative Howard Coble


Representative Susan W. Brooks


Representative Suzanne Bonamici


Representative Ann McLane Kuster


Representative Mark Meadows



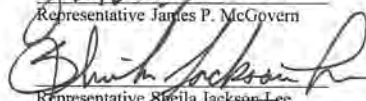
Representative Diane Black



Representative James Lankford



Representative James P. McGovern



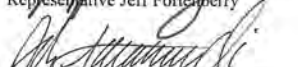
Representative Sheila Jackson Lee



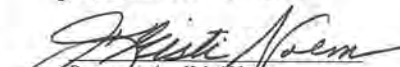
Representative Ted Poe



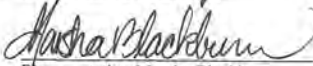
Representative Jeff Fortenberry



Representative John Garamendi



Representative Kristi Noem



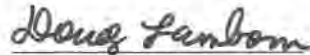
Representative Marsha Blackburn



Representative Mike Conaway



Representative Mike Rogers - AL



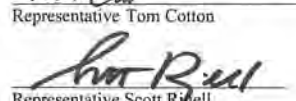
Representative Doug Lamborn



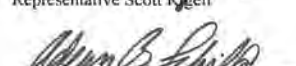
Representative Tim Griffin



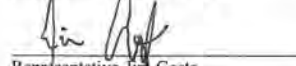
Representative Tom Cotton



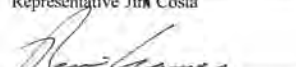
Representative Scott Rigell



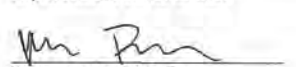
Representative Adam B. Schiff



Representative Jim Costa



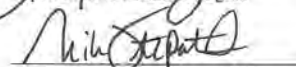
Representative Kevin Cramer



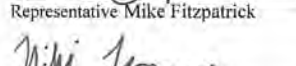
Representative Mark Pocan



Representative Michael Burgess



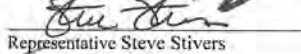
Representative Mike Fitzpatrick

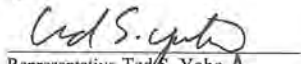


Representative Niki Tsongas

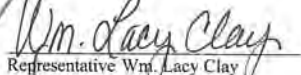

Representative Rick Nolan



Representative Scott Perry


Representative Steve Stivers


Representative Ted S. Yoho


Representative Tom McClintock

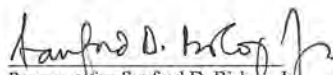

Representative Wm. Lacy Clay


Representative William R. Keating

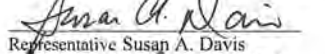

Representative Steve Stockman


Representative Vicky Hartzler



Representative Beto O'Rourke



Representative Sanford D. Bishop, Jr.


Representative Sean Duffy

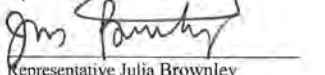

Representative Susan A. Davis

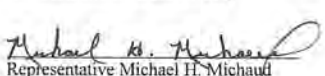

Representative Terri Sewell


Representative Frederica Wilson


Representative John Yarmuth


Representative Kevin Brady


Representative Julia Brownley


Representative Michael H. Michaud